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ABSTRACT

This publication provides a summary of relevant federal laws concerning the legal rights and benefits available to persons with disabilities. Relevant laws are divided into general subject areas, including education, employment, health, housing, income maintenance, nutrition, civil rights, social services, transportation, and vocational rehabilitation. After providing a brief overview of each law's basic structure, major programs authorized under the statute that affect persons with disabilities are described. The summary of each law concludes with an encapsulated legislative history, highlighting major milestones in the evolution of the particular statute as it impacts persons with disabilities. Minor legislation is summarized in an abridged format. Appendices provide a table listing the legislative histories of key statutes and a table of programs within each category. (PB)

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Summary of Existing Legislation Affecting People with Disabilities

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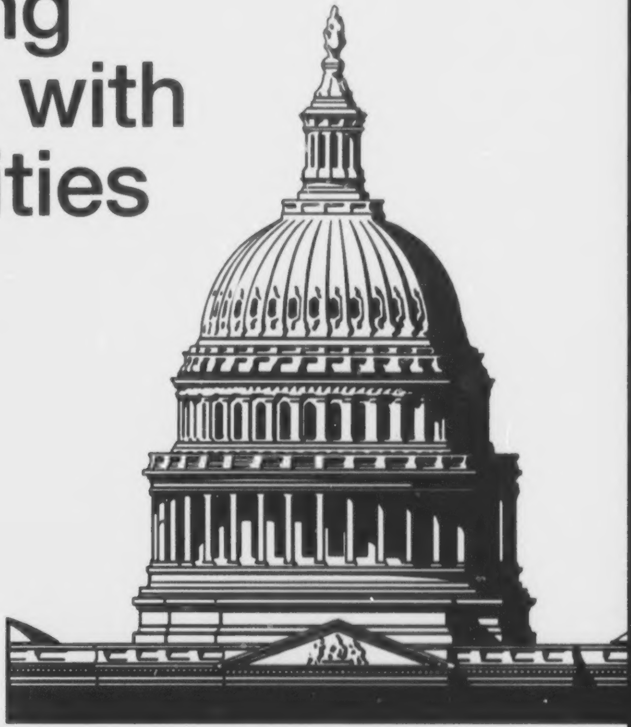

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INTRODUCTION

While the first federal laws designed to assist citizens with disabilities date back to the early years of the Republic, prior to World War II the statute books contained relatively few acts authorizing special benefits for people with disabilities, other than for war veterans with service connected disabilities. However, in recent years, particularly since the early 1960s, there has been a veritable avalanche of federal legislation that relates directly or indirectly to disability policy.

These statutes have been organized and codified in the U.S. Code for purposes of legal reference. This publication, originally developed in 1980, provides a reliable, wide-ranging summary of relevant federal laws for use by consumers, professionals, providers, advocates, family members and others interested in the legal rights and benefits available to persons with disabilities. It offers a summary of over 60 key federal laws.

The various laws are organized into general subject areas. The provisions of each separate act are described in non-technical language, using a common format. After providing a brief overview of the law's basic purpose and structure, the major programs authorized under the statute which affect persons with disabilities are described. We conclude the summary of each law with an encapsulated legislative history, highlighting major milestones in the evolution of the particular statute as it impacts on persons with disabilities.

Minor legislation affecting persons with disabilities is summarized in an abridged format, including a brief discussion of each law's importance and legislative origins.

Most statutes are presented under the subject category to which they apply (e.g., the Public Health Service Act appears under the section on "Health"; and the Individuals with Disabilities Education Act appears under the section on "Education"). However, the Social Security Act, which authorizes health, income maintenance and social services programs under its various titles, has been divided among the appropriate sections of the report, with pertinent titles treated separately (including appropriate cross-references). In addition, the section on "Rights" describes selected provisions of various statutes that describe basic rights and protections to be afforded citizens with disabilities.

Following the descriptions of each major program authorized under a particular act, there is a list of reference documents the reader may wish to consult for further information. The sources cited are: (1) the public law numbers of the act and/or its pertinent amendments; (2) the United States Code references (U.S.C.); and (3) the Catalog of Federal Domestic Assistance (C.F.D.A.) number. These source documents are available in most large public libraries, law school libraries, and certain government offices.

This report is not intended to be an exhaustive analysis of all federal statutes affecting individuals with disabilities. Nor is the material designed to provide legal interpretations of the relevant statutes. Persons interested in the precise language and applications of the law should refer to the primary source documents cited in the report.

Only those laws containing explicit provisions relating to persons with physical, mental, emotional and sensory disabilities are summarized in this report. The one major exception relates to laws authorizing benefits for disabled veterans. Since information and material on such statutes are generally available through the Veterans Administration, information on laws aimed exclusively at this population is not included.

Furthermore, readers should be aware of the fact that the information contained in this report is restricted to the provisions of the federal laws discussed. Regulatory and other administrative policies, as well as related judicial decisions, are included only when they are intertwined with the legislative history of a statute.

Additional information on actual program operations is usually available in the Catalog of Federal Domestic Assistance. This is one reason for including the appropriate Catalog reference number at the end of each program summary. Annotated versions of the United States Code also provide cross references to the Code of Federal Regulations, which is the primary source of information on administrative operating policies and procedures.

Each program description includes a FY 1991 appropriations figure. These figures may not be exact, and, therefore, should be viewed only as a general indicator of a program's scope. It is important to note that, in some cases, these figures represent funding for the program as a whole; the portion of expenditures directly benefiting persons with disabilities may be only a fraction of the total dollars appropriated (e.g., funds appropriated for the Social Services Block Grant for FY 1991 totalled $2.8 billion, but only a small portion of that total was used to assist individuals with disabilities).

In addition, the reader should be aware that this summary only provides a "snapshot in time." It includes laws enacted as of the end of the 1st Session of the 102nd Congress (through calendar year 1991). As this book goes to press several bills related to services and benefits for persons with disabilities are in various stages of the legislative process. For example, bills to reauthorize the Older Americans Act, the Higher Education Act, the Job Partnership and Training Act, and the Alcohol, Drug Abuse and Mental Health Block Grant program were all in various states of the legislative process when the 1st Session of the 102nd Congress adjourned.

It is our hope that the information included in this summary report will prove helpful to federal and state policymakers, professional workers, program administrators, consumers, students and other individuals with an interest in federal disability legislation. Additional copies of this publication may be obtained by contacting the Clearinghouse on Disability Information, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3132, Switzer Building, Washington, DC 20202–2524.

Abbreviations used in this text:

C.F.D.A.	Catalog of Federal Domestic Assistance
F.Y.	Fiscal Year
P.L.	Public Law
U.S.C.	United States Code

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EDUCATION

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT

A. Overview

Chapter 1 of the Education Consolidation and Improvement Act is the primary source of federal aid to elementary and secondary schools across the country. Originally enacted in 1965 as Title I of the Elementary and Secondary Education Act, Chapter 1 authorizes funds to assist local school districts in meeting the special educational needs of educationally-deprived children in low income areas. Funding also is made available under Chapter 1 to state education agencies to provide compensatory education services for children with disabilities or children who are neglected or delinquent or from migrant families. Other titles of the Act establish a wide variety of research, training and demonstration authorities, some of which may impact on education programs for children with disabilities (although, as discussed above, the primary source of federal support for such activities is the Individuals with Disabilities Education Act).

In 1988, an extensive rewrite of federal compensatory elementary and secondary education laws reauthorized block grants to state and local education agencies. The various programs authorized under this omnibus statute touch on practically every aspect of educating children at the elementary and secondary levels. However, the programs most directly related to children with disabilities are contained in Chapter 1 of the Act.

B. Major Programs Affecting Individuals with Disabilities

1. *State Operated and Supported Schools.* The purpose of this program, as authorized under Chapter 1 of the Act, is to provide federal assistance to help the states educate children with disabilities who are enrolled in state operated and supported programs. Federal funds must be used to pay for services that supplement a child's basic special education program, such as instruction, physical education, mobility training, counseling, prevocational and vocational education, teacher and teacher aide training, construction and the purchase of equipment.

In order to qualify for Chapter 1 funds, a state agency must file with the Secretary of Education statutory evidence that it is directly responsible for providing free public education for children with disabilities. It also must submit data on the number of such children in average daily attendance, in accordance with federally-prescribed reporting periods. Eligible schools, in turn, must submit project applications to the supervising state agency; but the designated state education agency has final authority to approve such applications.

A state agency's Chapter 1 allocation is determined by multiplying the number of eligible children (21 years of age or under) times 40 percent of the state's average per capita expenditures on behalf of all children enrolled in public elementary and secondary schools. However, no state may use an average per capita expenditure figure which is below 80 percent or above 120 percent of the national average for all states. The population eligible to receive services includes any child with a disability:

- for whom the state has responsibility for providing an education; and
- who is participating in a state-operated or state-supported program for children with disabilities or who previously participated in such a program and now is being educated by a local education agency.

A state agency also must meet certain requirements governing the maintenance of fiscal effort in order to qualify for Chapter 1 funding. FY 1991 appropriations (est.): $148.8 million.

References: Chapter 1 of the Education Consolidation and Improvement Act of 1981 (P.L. 97–35) as it amends Subpart 2, Part B, Title 1 of the Elementary and Secondary Education Act of 1965 (P.L. 89–10). P.L. 89–313, P.L. 90–247, P.L. 91–230, P.L. 93–380, P.L. 95–561, P.L. 100–297 and P.L. 101–501. 20 U.S.C. 2791 et. seq. C.F.D.A.: 84.009.

2. *Basic Programs Operated by Local Education Agencies*. Chapter 1 of the Education Consolidation and Improvement Act also amended and reauthorized the basic program of federal aid to assist educationally deprived children. Federally funded programs must be targeted toward educationally deprived children with the greatest need for special assistance. The law establishes procedures for identifying such children in low income areas. Among the statutory exceptions to these general procedures for identifying and selecting children in need of Chapter 1–funded services are youngsters who are receiving services to overcome a disability, provided they have needs which stem from educational deprivation that is not related solely to their disabilities. Thus, under certain circumstances, children with disabilities are eligible to participate in basic Chapter 1–funded services, although dollars are not explicitly earmarked for this purpose. FY 1991 appropriations (est.): $5.557 billion.

References: Chapter 1 of the Education Consolidation and Improvement Act (P.L. 97-35) as it amends Title I of the Elementary and Secondary Education Act of 1965 (P.L. 89-10). P.L. 90-247, P.L. 91-230, P.L. 93-380, P.L. 95-561, P.L. 100-297 and P.L. 101-501. 20 U.S.C. 2711 et. seq. C.F.D.A.: 84.010.

C. Legislative History

The Elementary and Secondary Education Act of 1965 (P.L. 89–10) represented the first major federal commitment to the improvement of elementary and secondary education. The core of the Act, Title I, authorized a multi-billion dollar program of aid to assist the states and local school districts in educating children from low-income families who were considered "educationally deprived." Local school districts receiving funds were required to provide supplementary services to meet the special needs of these children. In the legislative history of the Act, Congress defined "educationally disadvantaged children" to include children with handicapping conditions.

The Act was signed into law by President Lyndon Johnson in the spring of 1965. That same fall, Title I of P.L. 89–10 was amended (by P.L. 89–313) to authorize aid to state agencies operating and/or supporting schools for children with disabilities. Initially, such state agencies were entitled to receive aid calculated on the basis of the number of eligible children with disabilities multiplied by the state's average per capita expenditures on behalf of all children enrolled in elementary and secondary schools.

Full funding for state-operated and supported schools for youngsters with disabilities was mandated under the 1967 amendments to the Act (P.L. 90–247). This same set of amendments directed the U.S. Office of Education to use either the state or the national average per pupil expenditure for elementary education, whichever was higher, in calculating a state agency's Title I allocation for state-operated and supported schools.

1969 amendments to the Act (P.L. 91–230) authorized advanced appropriations for all ESEA programs. The purpose of this step was to synchronize the federal funding cycle with the school year and allow schools to lay plans, knowing the amount of federal funds they would be receiving.

The Education Amendments of 1974 (P.L. 93–380) included major revisions in the formula for distributing Title I funds to state-operated and supported schools. The per capita support level was reduced from 50 to 40 percent of the average per pupil costs of educating a child within the state (or in the nation, if higher). In addition, henceforth, no state or local school agency would be permitted to receive less than 80 percent or more than 120 percent of the national average per pupil expenditure. This revised formula was intended to equalize per capita federal aid among the states and among local school districts, incorporate a fairer poverty standard, and account for population shifts since the 1960 census. In order to avoid cutbacks in aid to state-operated and supported schools for children with disabilities, which would have been mandated under the new Title I formula, P.L. 93–380 included language which protected state agencies from receiving less in FY 1975 and subsequent fiscal years than they received in FY 1974.

The 1974 amendments also added a provision which permitted a state agency, for purposes of determining its Title I, ESEA entitlement, to continue to count a child with a disability when responsibility for the child's education was transferred from a state-operated or supported program to a local school district. However, the legislation required that, in such cases, all federal funds received on behalf of a child with a disability had to be forwarded to the local education agency actually providing services to the child.

1975 amendments to the Act (P.L. 95–561) made several minor changes in the Title I program of aid to state-operated and supported schools for children with disabilities. The basic purpose of these amendments was to make the program's statutory authority more consistent with the Education of the Handicapped Act, as amended in 1975.

As part of the Omnibus Budget Reconciliation Act of 1981, Congress enacted the "Education Consolidation and Improvement Act" (Subtitle D, Title V, P.L. 97–35). In addition to reducing the number of categorical elementary and secondary education grant programs and establishing a new block grant authority, ECIA imposed a temporary ceiling on Chapter 1 (formerly Title I) funding for state-operated and supported schools. Under the terms of the legislation, the combined funding level of schools serving eligible migrant, disabled, and neglected and delinquent children was limited to 14.6 percent of the total Chapter 1 appropriation during fiscal years 1982, 1983 and 1984. Also added to the law were requirements dealing with maintenance of a state's fiscal effort, using Chapter 1 funds to supplement and not supplant state/local support, and the provision of comparable services to eligible children.

The 1988 education amendments (P.L. 100–297) made a number of changes in Chapter 1, including the provisions dealing with aid to state-operated and supported schools for children with disabilities. The primary aim of the latter 1988 amendments was to clarify, simplify and coordinate Chapter 1 requirements with the requirements of Part B of the Education of the Handicapped Act (since renamed the Individuals with Disabilities Education Act). The funding formula for

Chapter 1 aid to state-operated and supported schools was not altered. However, the rights and protections guaranteed to children with disabilities participating in programs financed under Part B were made applicable to youngsters whose education was being financed through the Chapter 1 program.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

A. Overview

The Individuals with Disabilities Education Act (IDEA) (formerly known as the "Education of the Handicapped Act") is the primary source of federal aid to state and local school systems for instructional and support services to children with disabilities. The centerpiece of the Act is a state grant-in-aid program, authorized under Part B, which requires participating states to furnish all children with disabilities a free, appropriate public education in the least restrictive setting. Included under this authority are grant-in-aid funding to support elementary and secondary education services for children ages 5–21 and pre-school grants for children with disabilities who are between 3 and 5 years of age.

Since 1986, the Act also has included a formula grant program to assist the states in developing a coordinated comprehensive, statewide network of early intervention services for infants and toddlers with disabilities. This authority is contained in Part H of the Act. In addition to formula grants to the states, the legislation authorizes an array of discretionary grant programs aimed at stimulating improvements in educational services for children with disabilities. Included are grant programs designed to promote the recruitment and training of special education personnel, the conduct of research and demonstration projects, and the development and dissemination of instructional materials.

The Individuals with Disabilities Education Act (IDEA), as amended, is composed of eight parts. Part A outlines Congressional findings and sets forth the primary aims of the Act. It states that the goal of the Act is:

> "to assure that all children with disabilities have available to them ...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist states and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities."

Part A also includes: (1) definitions of terms used in the Act; (2) a provision requiring the Secretary of Education to establish within the Office of Special Education and Rehabilitative Services, an Office of Special Education Programs headed by a Deputy Assistant Secretary; (3) provisions governing the acquisition of equipment and the construction of necessary facilities; (4) a requirement that recipients of assistance under the Act "make positive efforts to employ and advance in employment qualified individuals with disabilities..."; and (5) authority for grants to remove architectural barriers.

Parts B through H of IDEA, as described below, authorize a variety of formula and discretionary grant programs.

B. Major Programs Affecting Persons with Disabilities

1. *Basic State Grants for Education of Persons with Disabilities.* As noted above, Part B of the Act authorizes formula grants to the states to cover part of the cost of providing special education and related services to children with disabilities. The purpose of this formula grant program is to assist states in furnishing a "free appropriate public education" to all eligible children with disabilities. The education and related services supported under this program must conform to a federally-approved state plan.

As specified in the Act, a "free appropriate public education" includes:

> (1) special education, defined as "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions"; and
>
> (2) related services, defined as "transportation, and such developmental, corrective and other supportive services ... as may be required to assist a child with a disability to benefit from special education...," including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling, and medical services (for diagnostic and evaluation purposes), and early identification and assessment of disabling conditions in children. Special education and related services are to be provided at no cost to the parents, and in conformity with an "individualized education program".

In order to qualify for funding under Part B, a state must demonstrate to the Secretary of Education that it has:

> (1) a policy that assures all children with disabilities the right to a free, appropriate public education;

(2) a plan, policies and procedures for providing special education and related services that conform to the specifications of the Act;

(3) established priorities for providing services which give top priority to meeting the needs of unserved children with disabilities and second priority to improving services to underserved children with the most severe disabilities;

(4) a policy that requires local education agencies to maintain an individualized education program on each child with a disability;

(5) established safeguards and procedures for integrating children with disabilities into regular classrooms to the maximum extent appropriate, and procedures for racial and cultural non-discriminatory testing and evaluation;

(6) assigned to the state education agency the responsibility for carrying out the provisions of Part B, including general supervision of special education programs administered by other state or local agencies; and

(7) consulted with persons concerned with the education of children with disabilities and held public hearings to obtain input prior to adopting policies, programs, and procedures.

Part B funds are allocated among the states on the basis of a statutory formula which takes into account the relative number of children with disabilities, ages 3 through 21, in any given state who are being furnished a free appropriate public education. The total number of children counted (the state's "child count") is multiplied by 40 percent of the average per pupil expenditure on behalf of all children in public elementary and secondary schools across the nation to determine a state's entitlement.

Part B of the Act stipulates that an individualized education program (IEP) must be developed for each child with a disability. A child's IEP must include (a) a statement of the child's current educational performance levels; (b) annual goals and short-term instructional objectives; (c) a description of the specific special education and related services to be provided and the extent to which the child will be able to participate in regular education programs; (d) the projected initiation date as well as the anticipated duration of services and (e) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved. The law also requires that each child's individualized education program be reviewed at least annually.

Local education agencies (and intermediate education units) are required to apply to the appropriate state education agency in order to qualify for federal support. The application must (a) assure that federal funds will be used exclusively to pay the excess costs attributable to the education of children with disabilities; (b) provide that all children with disabilities within the jurisdiction, regardless of the severity of their disabilities, will be identified, located and evaluated; (c) establish policies to safeguard the confidentiality of personal records; (d) establish a goal of providing full educational opportunities to all children with disabilities and a detailed timetable for accomplishing this goal; and (e) describe the kinds and number of facilities, personnel and services necessary to accomplish the goal. The state education agency is authorized to withhold federal funds if any local agency or intermediate education unit fails to comply with the above requirements.

In addition, state or local education agencies are required to provide an opportunity for impartial due process hearings when a parent or guardian presents a complaint relating to the child's identification, evaluation, educational placement, or program of services. At such hearings the parents have certain rights, including the right to be represented by counsel, to present evidence, cross-examine and compel the attendance of witnesses, and receive a statement of factual findings and decisions.

Part B stipulates that the state education agency is to be responsible for ensuring that the provisions of the state's special education plan are carried out. In addition, the state agency is to assure that all education programs for children with disabilities, including those administered by other state and local agencies, are under its general supervision and meet education agency standards.

All recipients of federal assistance under Part B of the Act are required to take affirmative steps to employ and advance in employment qualified individuals with disabilities.

Section 607 of the Act also authorizes such sums as may be necessary to allow the Secretary of Education to award grants to assist state and local education agencies to remove architectural barriers in educational facilities.

State education agencies are required to pass through to local education agencies at least 75 percent of their annual allotments of Part B funds. FY 1991 appropriations (est.): $1.854 billion.

References: Part B, Individuals with Disabilities Education Act, as amended by P.L. 94–142 and P.L. 98–199, 99–457, P.L. 100–630, P.L. 101–476 and P.L. 102–119. 20 U.S.C. 1401–1420. C.F.D.A.: 84.027.

2. *Preschool State Grants.* Separate allotments are made to the states under Part B to encourage the provision of special education and related services to preschool children with disabilities, ages 3 through 5. Such funds are awarded to state education agencies to supplement their basic Part B allotment to the extent that the state is providing a free appropriate public education for children with disabilities within this age range.

During FY 1987 and thereafter, states are eligible to receive per capita allowances based on the number of preschoolers with disabilities who were receiving special education and related services on December 1st of the previous fiscal year. The maximum basic per capita allowance was to increase from $300 to $1,000 per year over a four-year period, as indicated below:

Fiscal Year	*Annual Maximum Basic Per Capita Allowance*
1987	$ 300
1988	400
1989	500
1990 and 1991	1,000
1992 and thereafter	1,500

In addition, during FY 1987 through FY 1989 if the annual appropriation exceeded the amount necessary to make such payments to all participating states, the excess amount was to be distributed among the states based on their estimated increase in enrollment compared to the preceding fiscal year; however, the additional amount received by any given state could not exceed $3,800 per student.

In FY 1991 and succeeding fiscal years, the Secretary of Education was to award grants only to states which (a) met the eligibility requirements for Part B grants (i.e., basic grants to the states for educating children with disabilities, 3 through 21 years of age); and (b) had an approved state plan that assures "...the availability under state law and practice ... of a free appropriate public education for all handicapped children ages 3 to 5, inclusive." Until the latter provision (Section 619(b)(1)) went into effect, a state had to qualify for basic Part B funding, have an approved Part B state plan and serve some, but not necessarily all, youngsters with disabilities between 3 and 5 years of age.

In FY 1988 and thereafter, a state must pass at least 75 percent of its Part B preschool allotment through to local/intermediate school districts; 20 percent may be reserved for planning and development of a comprehensive delivery system involving direct and supportive services for children with disabilities, ages 3 to 5, and, at the State's discretion to furnish a free appropriate public education to 2 year old children with disabilities who will reach their third birthday during the school year. Up to five(5) percent may be used for administration of the program. FY 1991 appropriations: $292.8 million.

Reference: Part B, Individuals with Disabilities Education Act, as amended by P.L. 94–142, P.L. 98–199, P.L. 99–457, P.L. 100–630, P.L. 101–476 and P.L. 102–119. 20 U.S.C. 1419. C.F.D.A.: 84.173.

3. *Early Intervention State Grants.* Part H of IDEA directs the Secretary to make grants to assist states and other specified jurisdictions in developing "...a statewide, comprehensive, coordinated, multi-disciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families." In order to qualify for such grants, a state must establish a State Interagency Coordinating Council and demonstrate that it is making reasonable progress toward establishing a comprehensive early intervention system, as specified in the Act. During the first two years of participation, a state must submit an application that includes certain specified information and assurances dealing with the establishment of an interagency coordinating council, the designation of a lead state agency, the use of funds, public participation and the equitable distribution of resources.

To qualify for continued federal support in year three, a state must demonstrate that it has adopted a policy incorporating all of the required components of a statewide system, or obtain a waiver from the Secretary. By year four, a state must have a statewide system of early intervention services in place, have completed evaluations and assessments on all eligible youngsters and prepared an individualized family service plan (IFSP) on each eligible child. During the fifth and succeeding years of its participation in the Part H program, a state must demonstrate that it has in place all of the required components of a statewide early intervention system for infants, toddlers, and their families (see discussion below).

In 1991, Congress amended Part H to establishes a differential funding formula, depending on the stage a state is at in its implementation of the statutory requirements and whether it applies for a waiver of the legislation's fourth or fifth year requirements. States are to be divided into the following categories:

- fully participating states (i.e., states that meet the fifth year Part H requirements in accordance with the existing statutory timetable);
- states requesting a waiver of the fifth year requirements; and
- states requesting a waiver of fourth year requirements.

In general, the aim of the legislation is to grant those states which otherwise would be unable to meet the Act's year four and/or year five requirements additional time to come into compliance (up to a maximum of two years), while at the same time providing states which adhere to the existing statutory timetable an opportunity to receive a higher federal Part H allotment over the next several fiscal years.

A state's early intervention system must encompass the following minimum components:

- a definition of the term "developmentally delayed" for determining the eligibility of infants and toddlers for services under the state's program;
- timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the state before the fifth year of the state's official participation in this federal program (allowing up to two waiver years);
- timely, comprehensive, multidisciplinary evaluations of the service needs of infants and toddlers with disabilities and their families;
- an "individualized family services plan" (IFSP) for each eligible infant and toddler with a disability in the state, including the provision of case management services in accordance with such plan;
- a comprehensive "child find" system to locate infants and toddlers with disabilities in need of services, including timely procedures for making referrals to appropriate service providers;
- a public awareness program focusing on early identification of infants and toddlers with disabilities;
- a central directory of early intervention services, resources and expertise as well as research and demonstration projects being conducted within the state;
- a comprehensive personnel development system;
- a designated lead state agency to administer the program and serve as the fixed point of accountability;
- interagency agreements addressing components necessary to ensure effective cooperation and coordination, including provisions for dispute resolution and assignment of financial responsibility;
- a policy governing contracting or making other arrangements with providers of early intervention services;
- policies and procedures relating to financial matters, including a procedure for insuring the timely delivery of services and prompt reimbursement of funds used under Part H;

- procedural safeguards with respect to the provision of early intervention services;
- policies governing the establishment and maintenance of personnel standards;
- a data collection and management system for serving infants and toddlers with disabilities and their families; and
- procedures for resolving complaints.

Part H funds are to be allotted among the states based on the proportional number of infants and toddlers, ages birth through 2 (both disabled and non-disabled), in each state, except that no participating state is to receive less than $500,000 annually. $220 million is authorized for FY 1992 and "such sums as may be necessary" during the succeeding two years. FY 1991 appropriations: $117.1 million.

References: Part H, Individuals with Disabilities Education Act, as added by P.L. 99–457, P.L. 100–530, P.L. 101–476, P.L. 102–52 and P.L. 102–119. 20 U.S.C. 1471–1485. C.F.D.A.: 84.181.

4. *Regional Resource and Federal Centers*. The purpose of this project grant program, authorized under Part C of the Act, is to pay all or part of the cost of establishing and/or operating regional resource centers that focus on special education and early intervention services. The Secretary also is authorized to establish one coordinating technical assistance center. These centers provide advice, consultation, technical assistance and training as required by state educational agencies (SEAs) and through SEAs to local educational agencies and other agencies. Institutions of higher education, public agencies, private nonprofit organizations, state agencies or combinations of such agencies (including one or more local educational agencies) are eligible to apply for grants to establish regional resource centers. FY 1991 appropriations: $6.6 million.

References: Part C, Individuals with Disabilities Education Act, as amended by P.L. 90–247, P.L. 91–230, P.L. 95–49, P.L. 98–199, P.L. 99–457, P.L. 100–630 and P.L. 101–476. 20 U.S.C. 1421. C.F.D.A.: 84.028.

5. *Services for Deaf-Blind Children and Youth.* The Secretary is authorized to award grants or enter into cooperative agreements or contracts with public or nonprofit private agencies, institutions, or organizations to assist state education agencies, local educational agencies and designated lead agencies under Part H in educating deaf-blind children and youth and helping them to make a successful transition from school to adult life. A grant, cooperative agreement or contract under this authority may be used only for programs providing technical assistance, preservice or inservice training, replication of innovative approaches, pilot projects, development of methods contributing to adjustment and education, or to facilitate parental involvement. Grants, cooperative agreements and contracts also are authorized to support regional technical assistance programs and for the development of extended school year demonstration programs for children and youth with severe disabilities, including children and youth who are both deaf and blind. FY 1991 appropriations: $12.8 million.

References: Part C, Individuals with Disabilities Education Act, as amended by P.L. 91-230, P.L. 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1422. C.F.D.A.: 84.025.

6. ***Early Childhood Education.*** Under this project grant program, authorized under Part C of the Act, grants are awarded for demonstration, experimental, outreach, research, training, and technical assistance projects and other activities which focus on services to children with disabilities from birth through 8 years of age. Parent participation, dissemination of information to professionals and the general public are required. FY 1991 appropriations: $24.2 million.

References: Part C, Individuals with Disabilities Education Act (P.L. 91-230), as amended by P.L. 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1423. C.F.D.A.: 84.024.

7. ***Innovative Programs for Children with Severe Disabilities.*** The purpose of this project grant program, authorized under Part C of the Act, is to support innovative approaches to address the special education, related services, early intervention and integration needs of infants, toddlers, children and youth with severe disabilities. Such grants may be used for research, demonstration, training and dissemination activities, as well as to support statewide projects designed to improve the quality of special education and related services for children and youth with severe disabilities. Grants, cooperative agreements and contracts are made to organizations or institutions determined by the Secretary of Education to be appropriate to address the needs of infants, toddlers, children and youth with severe disabilities. FY 1991 appropriations: $7.9 million.

References: Part C, Individuals with Disabilities Education Act (P.L. 91-230), as amended by P.L. 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1424. C.F.D.A.: 84.086.

8. ***Postsecondary Education.*** Under Part C of the Act, the Secretary is authorized to make grants or enter into contracts for the development, operation and dissemination of specially designed or modified programs of vocational, technical, postsecondary, continuing or adult education for persons who are deaf or otherwise disabled. State education agencies, institutions of higher education, junior and community colleges, vocational and technical institutions and other appropriate nonprofit education agencies are eligible to receive such

grants or contracts. In selecting grantees, the Secretary must give priority consideration to four regional centers serving students who are deaf and to model programs for individuals with disabling conditions other than deafness. FY 1991 appropriations: $8.5 million.

References: Part C, Individuals with Disabilities Education Act, P.L. 93–380, as amended by P.L. 98–199, P.L. 99–457, P.L. 100–360 and P.L. 101–476. 20 U.S.C. 1424a. C.F.D.A.: 84.078.

9. *Secondary Education and Transitional Services*. In accordance with Part C of the Act, the Secretary is empowered to award grants or enter into cooperative agreements to (a) strengthen and coordinate special education, training and related services for youth with disabilities in order to assist such individuals in the transition process to postsecondary education, vocational training, competitive employment, continuing education, independent and community living or adult services; (b) stimulate the development and improvement of secondary special education programs; and (c) stimulate the improvement of the vocational and life skills of students with disabilities to enable them to be better prepared for the transition to adult life and services. FY 1991 appropriations: $27.5 million.

The Education of the Handicapped Act Amendments of 1990 authorized the Secretary of Education to "make one-time, fifth year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and the State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth [14 years of age and older, until] they exit school". States are required to use these grants funds to:

- increase the availability and quality of transitional services through the development of improved policies, procedures, systems and other mechanisms for aiding youth with disabilities and their families to prepare for entry into adult life;
- improve the ability of professionals, parents, and advocates to work with such youths in ways that promote the successful transition from their role as a "student" to their role as an "adult";
- improve working relationships among education personnel, rehabilitation agency staff, the staff of other relevant state agencies, state/local employment agencies, local Private Industry Councils, etc.; and
- create an incentive to link funding from this source with dollars available from other sources.

FY 1991 appropriations: $14.6 million.

References: Part C, Individuals with Disabilities Education Act (P.L. 91-230), as amended by P.L. 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1425. C.F.D.A.: 84.158.

10. ***Special Education Personnel Development.*** Project grants are awarded under Part D of the Act to (a) improve the quality and increase the supply of teachers, supervisors, administrators, and other special education personnel; (b) develop special training projects; (c) assist state education agencies in establishing and maintaining preservice and inservice training programs for personnel; and (d) establish training consortia and partnerships. Such grants may be awarded to institutions of higher education or other appropriate nonprofit agencies. The Secretary also is authorized to make grants to private nonprofit organizations to provide training and information to parents of children with disabilities and persons who work with such parents. FY 1991 appropriations: $69.3 million.

References: Part D, Individuals with Disabilities Education Act (P.L. 91-230), as amended by P.L. 93-380, P.L. 95-49, P.L. 98-199, 99-457, P.L. 100-630, P.L. 101-476 and P.L. 102-119. 20 U.S.C. 1431, 1432 and 1434. C.F.D.A.: 84.029.

11. ***Clearinghouses for Students with Disabilities.*** The Secretary is authorized under Part D of the Act to support a national clearinghouse on the education of children and youth with disabilities. The Secretary also is directed to establish (through a grant or contract) a national clearinghouse on postsecondary education for individuals with disabilities and a national clearinghouse to encourage students to seek careers in special education and help persons seeking employment in the field. FY 1991 appropriations: $1.5 million.

References: Part D, Individuals with Disabilities Education Act, P.L. 91-230, as amended by P.L. 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1433. C.F.D.A.: 84.030.

12. ***Research and Demonstration Projects.*** Under Part E of the Act, project grants are awarded to support research and related activities, including the initiation of model programs designed to improve the education of children with disabilities. Grants, cooperative agreements or contracts are made to state or local education agencies, public and nonprofit private institutions of higher education and other public agencies or nonprofit private organizations. FY 1991 appropriations: $20.2 million.

References: Part E, Individuals with Disabilities Education Act (P.L. 91-230), as amended by P.L. 95-49, 98-199, P.L. 99-457, P.L. 100-630 and P.L. 101-476. 20 U.S.C. 1441-1442. C.F.D.A.: 84.023.

13. ***Instructional Media and Captioned Films.*** Project grants or contracts are made under Part F of the Act to public and private agencies and organizations to support primarily the following types of activities (1) to distribute captioned and video described materials and other educational media and equipment of benefit to persons who are deaf, blind or otherwise disabled through state-operated schools, public libraries and other entities; (2) to acquire and distribute educational media, materials and equipment; (3) to support research into the use of educational media; and (4) to train teachers, parents and others in educational media utilization. FY 1991 appropriations: $16.4 million.

References: Part F, Individuals with Disabilities Education Act, as amended, P.L. 89–258, P.L. 90–247, P.L. 91–230, P.L. 95–49, P.L. 98–199, P.L. 99–457, P.L. 100–630, P.L. 101–479 and P.L. 102–119. 20 U.S.C. 1451. C.F.D.A.: 84.026.

14. *Technology, Educational Media and Materials.* Under Part G of the Act, the Secretary is authorized to make grants or enter into contracts or cooperative agreements to institutions of higher education, state and local education agencies, other public agencies and not-for-profit organizations to advance the use of new technologies, media and materials used in educating students with disabilities and providing early intervention services to infants and toddlers with disabilities. FY 1991 appropriations: $5.6 million.

References: Part G, Individuals with Disabilities Education Act, P.L. 99–457, P.L. 100–630 and P.L. 101–476. 20 U.S.C. 1461. C.F.D.A.: 84.180.

C. Legislative History

In 1966, Congressional hearings revealed that only about one third of the 5.5 million children with disabilities in the country were being provided appropriate special education services. According to a Senate committee report issued at the time, the remaining two thirds were either totally excluded from public schools or "sitting idly in regular classrooms awaiting the time when they were old enough to 'drop out'." Federal programs directed at children with disabilities, the Senate committee reported, were "minimal, fractionated, uncoordinated, and frequently given a low priority in the education community."

1. *Basic State Formula Grants.* In response to this situation, Congress passed P.L. 89–750, which added a new Title VI to the Elementary and Secondary Education Act. Under this new authority, a program of grants to the states was established to assist in the education of children with disabilities. The 1966 legislation also created a national Advisory Committee on Handicapped Children and mandated the creation of a Bureau of Education for the Handicapped within the U.S. Office of Education. The Bureau was to be responsible for administering programs and projects relating to the education and training of children and youth with disabilities, including programs and projects for training teachers and for conducting research in the field of special education.

In 1967, amendments to the Elementary and Secondary Education Act (P.L. 90–247) stipulated that no state would receive less than $100,000 or 3/10 of 1 percent of the annual Congressional appropriation for Part B grants, whichever was greater. This provision was intended to ensure that each state received a large enough grant to make the program effective.

The Elementary and Secondary Education Amendments of 1970 (P.L. 91–230) consolidated into one Act a number of previously separate federal grant authorities relating to children with disabilities, including Title VI of ESEA. This new authority was entitled the "Education of the Handicapped Act."

The Education Amendments of 1974 (P.L. 93–380) authorized a sharp increase in funds to assist in educating children with disabilities in the public schools, in order to help states faced with meeting court or legislatively imposed "right to education" mandates. P.L. 93–380 also required the states to establish a goal of providing full educational opportunities for all children with disabilities and submit, by August 21, 1974, a detailed plan and timetable for achieving this goal. In addition, the Act provided procedural safeguards for use in identifying, evaluating and placing children with disabilities, and mandated that such youngsters be integrated into regular classes whenever possible. It also required the states to provide assurances that testing and evaluation materials would be selected and administered on a nondiscriminatory basis. Finally, P.L. 93–380 elevated the head of the Bureau of Education for the Handicapped to the status of Deputy Commissioner of Education.

In 1975, the Education for All Handicapped Children's Act (P.L. 94–142) expanded the Part B program into a multi-billion dollar federal commitment to assisting state and local education agencies to provide appropriate education services for children with disabilities. Passage of this legislation marked a significant milestone in the nation's efforts to provide full and appropriate education services for children with disabilities.

P.L. 94–142 established a new allocation formula under which states would be entitled to receive an amount equal to the number of children with disabilities, ages 3 through 21, receiving special education and related services, times a specified percentage of the average per pupil expenditure in public elementary and secondary schools in the United States. The Act called for a gradually increasing percentage of federal aid, beginning with 5 percent in FY 1978, to 10 percent in FY 1979, to 20 percent in FY 1980, 30 percent in FY 1981, and 40 percent in FY 1982 and succeeding fiscal years.

In order to prevent states from including non-disabled children, P.L. 94–142 initially limited the number of children who could be counted to 12 percent of the total school-aged population between the ages of 5 and 17. In addition (a) no more than 1/6 of a state's total count (or 2 percent) could consist of children with specific learning disabilities; and (b) children counted for purposes of determining the state's entitlement under Title I of the Elementary and Secondary Education Act (as amended by P.L. 89–313) could not be counted under the Part B program. The limitation on the number of children with learning disabilities in a state's "child count" since has been removed.

Among the noteworthy features of the 1990 amendments to the Act were the following: (a) a revised definition of the term "children with disabilities", including "children with autism" and "children with traumatic brain injury"; (b) substitution of the term "disabilities" for the term "handicapped" throughout the Act; and (c) clarification of the settings in which special education services may be delivered.

2. *State Preschool Grants.* The Education for All Handicapped Children's Act of 1975 (P.L. 94–142) included a separate authority to encourage states to serve children between the ages of 3 and 5. States were entitled to receive up to $300 per annum in federal aid for each child with a disability in that age range receiving appropriate education services. However, per capita grants were to be rateably reduced during any fiscal year in which appropriations were insufficient to cover the states' full entitlements.

In the 1986 amendments to the Act (P.L. 99–457), Congress sharply increased the annual per capita allowance a state is eligible to receive on behalf of each preschool-aged child with a disability (see item B-2 above for details). In order to qualify for such additional aid, a state must take steps to assure that all children with disabilities between 3 and 5 years of age are receiving appropriate special education services no later than the beginning of FY 1990 or, under certain circumstances, FY 1991.

3. *State Early Intervention Grants.* Early education services for youngsters with disabilities initially were authorized under the Handicapped Children's Early Education Assistance Act of 1968 (P.L. 90–538). The Act established a project grant program to support experimental preschool and early education programs for children with disabilities, including activities and services designed to encourage intellectual, emotional, physical, mental, social and language development. In 1970, this program was extended and folded into Part C of the Education of the Handicapped Act.

In 1983, Congress authorized grants to assist states in planning, developing and implementing "a comprehensive delivery system for the provision of special education and related services to handicapped and other developmentally delayed children from birth through 5 years of age." Then, in concert with the expansion of services to preschool-aged youngsters discussed above, Congress, in 1986, added a new formula grant program to assist the states in developing comprehensive systems of early intervention services for infants and toddlers with disabilities and their families.

As states drew closer to the date by which they were required to meet the "full service" mandate of Part H, it became increasingly clear that some states would have to drop out of the program unless Congress modified the existing statutory deadlines. Therefore, in 1991, Congress enacted legislation (P.L. 102–56) authorizing the Secretary of Education to waive the fourth and fifth year requirements of the Act under certain circumstances when a state so requested. This Part H waiver authority was added as a rider to a bill to authorize a simple, one-year extension of programs under the Rehabilitation Act of 1973 (for details see item B-3 above).

During 1991, Congress also approved legislation (P.L. 102–119) amending and extending Part H of the Act for an additional three years. P.L. 102–119 included a variety of provisions designed to fine-tune the statutory requirements governing participation, organization and funding of early intervention services for infants and toddlers with disabilities and developmental delays and their families.

4. *Centers and Services.* The Elementary and Secondary Education Amendments of 1967 (P.L. 90–247) authorized the establishment of regional resource centers, aimed at assisting teachers and other school personnel through the evaluation of educational materials and the development and dissemination of specific educational strategies for use in instructing children with disabilities. P.L. 90–247 also authorized centers and services for deaf-blind children.

Among the specific statutory responsibilities of these centers were the provision of (a) comprehensive diagnostic and evaluation services; (b) programs for education, orientation and adjustment of such children; (c) consultative services for parents, teachers and others working with deaf-blind youngsters; and (d) training for teachers and related specialists in research and demonstration activities.

As the range and types of services available to children with disabilities through local educational agencies has expanded, the role of these federally funded centers has evolved. For example, in 1983 amendments to the Act Congress broadened the responsibilities of regional resource centers to include the dissemination of information to state agencies, professionals working with youngsters with disabilities and the families of such children. In this same set of amendments, the role of deaf-blind centers in providing direct services was de-emphasized in favor of technical assistance, preservice and inservice training and replication activities.

In addition to authorizing a sharp expansion in preschool grants and establishing a new program of early intervention grants to the states under Part H, the EHA amendments of 1986 (P.L. 99–457), expanded the early education project grant program. The previous authority for planning, development and implementation grants was eliminated and, instead, the Secretary was authorized to fund (a) demonstration and outreach programs as well as experimental projects and training related to exemplary early education models and practices; (b) a technical assistance program to aid states and other public and private agencies to expand early education services for children birth to 8 years of age; and (c) early childhood research institutes, plus other research activities. In addition, early intervention and preschool services were added as a fundable activity under practically all of the other discretionary training, research and demonstration authorities of the Act.

Congress initially enacted the Captioned Films for the Deaf Act in 1958 (P.L. 85–905). It permitted the Office of Education to purchase, lease or accept films (primarily recreational films), provide captions for them, and distribute them through state schools for the deaf, as well as through other appropriate agencies.

Amendments to the Act in 1962 (P.L. 87–815) authorized the production of captioned films, the training of persons in their use, and the conduct of research to improve the quality and effectiveness of production as well as the broad utilization of the film medium. In 1965, this authority was broadened to include other forms of instructional materials, such as tapes, transparencies and programmed instructional materials (P.L. 89–258).

The ESEA Amendments of 1967 (P.L. 90–247) expanded the instructional media program to provide for the production and distribution of educational media for the use of persons with all types of disabling conditions (not just deafness), their parents, actual or potential employers, and other persons directly involved in working on behalf of persons with disabilities. The amendments also authorized research and training of persons in the use of educational media for teaching individuals with disabilities. The Education of the Handicapped Amendments of 1977 (P.L. 95–49) continued the program without change.

One of the most significant features of the "Education of the Handicapped Act Amendments of 1990" was the addition of new provisions to expand opportunities for adolescents with disabilities to make a successful transition from school to adult life (see B-9 above for details). The enactment of these amendments were a reflection of the growing nationwide concern about the high percentage of young adults who were unemployed or underemployed for years after graduating from special education programs.

5. *Training.* Federal assistance in preparing teachers of children with disabilities was initially authorized under the National Defense Education Act of 1958 (P.L. 85–926). The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88–164) expanded the provisions for the training of personnel to all areas of education for persons with disabilities, at all academic levels — from teacher training to the training of college instructors, research personnel, and administrators and supervisors of special education teachers. The 1965 amendments to the Act (P.L. 89–105) extended the teacher training authority, while 1967 amendments (P.L. 90–170) added provisions for training physical education and recreation personnel for children with mental retardation and other disabilities.

The Elementary and Secondary Education Act Amendments of 1967 (P.L. 90–247) expanded teacher training to include an information dissemination program. The Education of the Handicapped Amendments of 1977 (P.L. 95–49) continued the statutory authority for these activities with minor modifications, while under the Education of the Handicapped Amendments of 1983 (P.L. 98–199) the Secretary was authorized to award grants to train parents of children and youth with disabilities. Ten percent of the funds appropriated for personnel development under Part D were earmarked for such parent training grants.

The 1990 Amendments to the Act placed a greater emphasis on recruiting, preparing and retaining qualified members of racial and ethnic minorities.

6. *Research*. Federal funding of research and demonstration projects related to education of children with disabilities was originally authorized under the National Defense Education Act of 1958 (P.L. 85–926). The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88–164) extended and expanded the special education research and demonstration authority under P.L. 85–926. The 1965 amendments (P.L. 89–105) once again extended this research and demonstration program. The Elementary and Secondary Education Amendments of 1967 (P.L. 90–247) added authority to conduct intramural research and to support extramural research grants to private, as well as public, educational or research institutions or organizations.

Research and model demonstration projects related to specific learning disabilities were originally authorized under the ESEA Amendments of 1969 (P.L. 91–230). In 1977, this authority was transferred to Part E of the Education of the Handicapped Act (P.L. 95–49).

EDUCATION OF THE DEAF ACT OF 1986

In 1986, Congress enacted legislation which consolidated and amended several federal laws affecting educational services to persons who are deaf. Under Part A, Title I of the "Education of the Deaf Act of 1986" (P.L. 99–371), the original statute establishing Gallaudet College was updated. Among the most significant changes that were included in P.L. 99–371 were (a) the name of the school was changed from "Gallaudet College" to "Gallaudet University"; (b) the statute was placed on a five-year reauthorization cycle; (c) the school was required to conduct an annual independent audit of its programs and activities; and (d) the Department of Education was directed to expand its monitoring and evaluation role.

Part B of Title I extends the statutory authority for Gallaudet University to operate the Kendall Demonstration Elementary School. The purpose of this school is to furnish "...day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation..." The school is to serve primarily residents of the National Capital Region.

Gallaudet also is authorized to continue to operate a model secondary school for students who are deaf under Part C, Title I of the Act. The aims of this school, initially authorized under the "Model Secondary School for the Deaf Act" of 1966, are similar to the Kendall School, except that the focus is on preparing secondary school students for college and other advanced studies. The school is to serve primarily residents of the District of Columbia and nearby states.

Title II of the 1986 Act extends the statutory authority of the National Technical Institute for the Deaf. This Institute, established under a 1966 contractual agreement between the Department of Health, Education and Welfare and the Rochester Institute of Technology, provides "...a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment...." The Institute was initially established under the National Technical Institute for the Deaf Act. As in the case of Gallaudet University, the 1986 Act includes amendments requiring the Institute to conduct an annual audit and placing it on a five year reauthorization schedule.

A Commission on Education of the Deaf was established under Title III of P.L. 99–371. The statutory mandate of this 12 member commission is to study the quality of infant and early childhood programs, as well as elementary, secondary, postsecondary, adult, and continuing education programs for individuals who are deaf. The Commission was to make recommendations to the President and Congress for improving current programs and practices within 18 months of the enactment of the legislation.

The 1986 Act also authorizes the Secretary of Education and the boards of directors of both Gallaudet University (GU) and the National Technical Institute for the Deaf (NTID) to establish an endowment fund to promote the financial independence of these two federally-supported institutions. Based on amounts appropriated by Congress for this purpose, the Secretary is authorized to make payments to the GU and NTID endowment funds, in an amount equal to the sum of non-federal contributions received by the respective funds.

References: Education of the Deaf Act of 1986, P.L. 99–371. 20 U.S.C. 4301 et. seq.
C.F.D.A.: N/A.

LIBRARY SERVICES AND CONSTRUCTION ACT

The Library Services and Construction Act is the primary source of federal support for the nation's public libraries. Originally enacted to help local communities develop library services in rural areas, the Act since has been expanded to cover urban libraries as well as library services for patients and inmates of state-supported institutions, persons with physical disabilities, and disadvantaged individuals in low income areas.

Federal assistance to public libraries began in 1956, when Congress passed the original Library Services Act (P.L. 84–597) and provided $2 million in funding for the development of library services in rural areas. In 1964, the Act was amended (P.L. 88–269) to extend coverage to urban as well as rural libraries and to add a new program of library facility construction grants. The Act also was renamed the Library Services and Construction Act at that time.

The Library Services and Construction Act Amendments of 1966 (P.L. 89–511) added a new Title IV to the Act. Part A of Title IV authorized a program to assist states in providing library services in state institutions for inmates, patients and residents. Services also were authorized for students with physical or mental disabilities who were in residential schools operated or substantially supported by the state. Part B of Title IV made federal funds available to state agencies for library services for individuals who were certified by a responsible authority as unable to read or to use conventional printed materials as a result of physical limitations. Such services could be provided through public or nonprofit library agencies or organizations.

Amendments to the Act in 1970 (P.L. 91–600) consolidated the various categorical grant programs under Title IV, including the authority for library services to residents of institutions, into an expanded basic state formula grant authority for library services under Title I of the Act. The legislation was later extended in 1973 (P.L. 93–29), in 1977 (P.L. 95–123), in 1981 (P.L. 97–35), and in 1984 (P.L. 98–480).

A 5-year reauthorization of the Library Services and Construction Act was signed into law (P.L. 101–254) by President Bush on March 15, 1990. No new provisions were added which impact differentially on persons with disabilities.

The Library Services and Construction Act is composed of six titles. Title I authorizes basic grants-in-aid to assist the states in expanding and improving library services. Among the purposes for which Title I funds may be used is to provide library services for patients and inmates in state-supported institutions, persons with physical disabilities and disadvantaged persons in low income areas (urban and rural).

To receive specialized library services, an individual with a physical disability (including a person who is blind or otherwise visually impaired) must be "...certified by a competent authority as unable to read or to use conventional printed materials as a result of physical limitations." The statutory definition of "state institutional library services" includes "students in residential schools for the physically handicapped (including mentally retarded, hearing impaired, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired or other health impaired persons) who by reason thereof require special education..." Such schools must be operated or substantially supported by the state.

In order to qualify for federal aid under the Act, a state must maintain a long range plan for carrying out the purposes of the statute. This plan must give priority to improving library resources and services for persons with disabling conditions as well as a number of other special target populations. In addition, a state must prepare an annual library services program plan to qualify for its Title I allotment. Among the elements that must be included in the latter plan are: (a) criteria to be used in allocating funds for state institutional library services and library services for persons with physical disabilities; and (b) a description of the manner in which programs for individuals with disabilities will be used to make library services more accessible to such individuals. FY 1991 appropriations (est.): $82.0 million (Title I only).

References: Library Services and Construction Act, enacted December 30, 1970 (P.L. 91–600), as amended by P.L. 93–133, P.L. 95–123, P.L. 97–35, P.L. 98–480 and P.L. 101–254. 20 U.S.C. 352–354. C.F.D.A.: 84.034

HIGHER EDUCATION ACT

Federal support for higher education dates back to the 19th Century, when, under the Morrill Act, Congress established state land-grant universities. Among the more recent higher education statutes were the GI Bill, which authorized education assistance to ex-servicemen after World War II, and the National Defense Education Act (P.L. 85–864), which provided funds to stimulate the development of university-based programs in the applied sciences (after the Russians launched the Sputnik satellite).

In 1965, several existing federal laws were recodified and expanded into the Higher Education Act (P.L. 89–329). A new system of student grants and guaranteed loans was established under this legislation. In addition, the 1965 Act authorized financial assistance for the procurement of undergraduate instructional equipment, the initiation of community service programs, the support of college libraries and developing institutions, and the creation of the Teacher Corps. The Higher Education Act also established a national policy of increasing accessibility of disadvantaged students to postsecondary education.

Subsequent amendments to the 1965 Act in 1972 (P.L. 92–318), 1976 (P.L. 94–482), 1980 (P.L. 96–374) and 1986 (P.L. 99–498) added a variety of new grant and loan authorities and repealed or revised others. In the process, several provisions were included that directly or indirectly benefit persons with disabilities.

Under Title IV, Part E of the Act, the Secretary of Education is authorized to establish and maintain funds at institutions of higher education through which low interest loans may be awarded to needy students. These so-called "Perkins Loans" may be cancelled if the student, upon graduation, works in certain public service professions, including as a full time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system. Loans are cancelled at the rate of 15 percent for the first or second year of service, 20 percent for the third or fourth year and 30 percent for the fifth year. FY 1991 appropriations (est.): $15.6 million.

Title VII of the Act authorizes construction/renovation grants and loans to institutions of higher education. Among the purposes for which funds under this authority may be used are bringing academic facilities into compliance with the Architectural Barriers Act of 1968 and Section 504 of the Rehabilitation Act of 1973 (i.e., prohibiting discrimination against persons with disabilities in federally-assisted programs). State plans for undergraduate academic facilities supported under Part A of this title must conform to standards prescribed by the Secretary with regard to accessibility to, and usability by, persons with disabilities. FY 1991 appropriations (est.): $4.2 million.

References: Loan Cancellations—Part E, Title IV, Higher Education Act of 1965, as amended by P.L. 99–498. 20: U.S.C. 1087 aa-1087 hh. C.F.D.A.: 84.037. Construction/Renovation—Title VII, Higher Education Act of 1965 (P.L. 89–329), as amended. 20 U.S.C. 1132 a - 1132g; 1133. C.F.D.A.: 84.172.

CARL D. PERKINS VOCATIONAL EDUCATION ACT

Federal support for vocational education programs dates back to the Smith-Hughes Act of 1917. The Vocational Education Act of 1963 (P.L. 88–210), however, created the first permanent, broad-scaled authority to assist the states in developing vocational training programs for young Americans through the public schools.

In the 1968 amendments to the Vocational Education Act (P.L. 90–576), Congress required each participating state to earmark ten percent of its basic vocational education allotment for services to youth with disabilities. This authority was expanded and clarified in the 1976 amendments to the Act (P.L. 94–482) by requiring states to: (a) establish a 50 percent state matching ratio for services to students with disabilities, in order to eliminate the practice of replacing state funds with federal monies; (b) use the set-aside funds to assist such individuals, to the maximum extent possible, to participate in regular vocational education programs and to reduce the number of students with disabilities placed in segregated vocational classes; and (c) establish vocational education plans and policies that were consistent with the state's education of the handicapped plan under P.L. 94–142.

The 1990 "Reauthorization of the Carl D. Perkins Vocational Education and Applied Technology Amendments" (P.L. 101–392) was the most comprehensive re-write of vocational education legislation since the program was enacted in 1963. Changes in the Act are designed to ensure that federal funds (a) are used to emphasize the integration of academic and vocational education; (b) are focused on disadvantaged students; and (c) are directly distributed to local schools rather than state education bureaucracies.

Special set-aside funds for various target populations, including youth with disabilities, were eliminated under the provisions of the 1990 amendments to the Act, in order to provide schools with greater flexibility and more funds for overall improvement. A new funding formula was designed to target money to those school systems serving the largest number of disadvantaged students and students with disabilities.

Specific language was included in the 1990 amendments to guarantee students with disabilities access to qualified vocational programs and supplementary services. States are to distribute funds for secondary vocational programs as follows:

- Seventy percent according to the Chapter 1 child count;
- Twenty percent according to the count of students served under the Individuals with Disabilities Education Act; and
- Ten percent according to the overall number of students served by the local educational agencies.

There are several new programs authorized under P.L. 101–392 that contain special provisions for the participation of individuals with disabilities. The "Business-Labor-Education Partnership for Training Program" is designed to provide schools with the resources needed to improve the quality of vocational programs and, thereby, provide skilled employees to businesses. Funds are distributed to schools on a competitive basis to increase access to and the quality of programs for individuals with disabilities or disadvantaged students.

The "Tech-Prep Education Programs" consist of two years of secondary school preceding graduation, and two years of higher education following secondary instruction, with a course load in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field for individuals with disabilities or disadvantages.

"Vocational Education Lighthouse Schools Grants" will be awarded to secondary and area vocational schools to establish and operate high quality, model vocational programs. These funds may be used to develop and disseminate model approaches to meeting the education and career counseling needs of students with disabilities, minority students, disadvantaged students, and students with limited English proficiency.

Research grants are authorized under Title IV of the Act. One purpose for which such grant funds must be used is to identify "...effective methods for providing quality vocational education..." to a number of special target populations, including individuals with disabilities. In addition, the statutory mission of the National Center for Research in Vocational Education includes the provision of technical assistance to programs serving people with disabilities and other special populations. The National Institute of Education also must conduct a national assessment of vocational education programs assisted under the Act, including the coordination of vocational education and postsecondary programs for individuals with social disadvantages and disabilities. FY 1991 appropriations (est): $849.4 million (Title II only).

References: Title II, III and IV of the Carl D. Perkins Vocational Education Act, P.L. 98-524, and Reauthorization Act of 1990 (P.L. 101-392). 20 U.S.C. 2331 et. seq. C.F.D.A.: 84.048.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

On October 17, 1979, President Carter signed into law a measure authorizing the establishment of a Cabinet-level Department of Education (P.L. 96-88). Most of the education programs formerly operated by the Office of Education in the Department of Health, Education, and Welfare, as well as Overseas Defense Department schools and other federal education activities, were placed under the jurisdiction of this new federal agency. Child nutrition, veterans education, Head Start, aid to the arts and humanities and educational activities of the National Science Foundation, however, were left in other federal agencies. Under the Act, the Department of Health, Education, and Welfare was renamed the Department of Health and Human Services.

The 1979 law established an Office of Special Education and Rehabilitative Services, headed by an Assistant Secretary, to administer programs authorized under the Education of the Handicapped Act, as well as the Rehabilitation and Randolph-Sheppard Acts. These programs previously were administered by the Bureau of Education for the Handicapped and by the Rehabilitation Services Administration, respectively. The Developmental Disabilities program, which had been located in the Rehabilitation Services Administration, was not transferred in the new Department; instead, it was housed in the Administration on Developmental Disabilities (ADD), Office of Human Development Services (OHDS) of the Department of Health and Human Services. [N.B., In 1991, OHDS was disbanded and ADD was shifted to the newly established HHS Administration on Children and Families.]

DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

This Act directs the Secretary of Defense to establish and operate a "defense dependents' education system" that provides a free public education through secondary schools for dependents of DOD personnel living in overseas areas. In establishing this system, the Secretary is charged with furnishing programs designed to meet the special needs of several unique sub-populations including individuals with disabilities. The Reauthorization of Part H of IDEA (P.L. 102-119) amended this Act to add the same requirements for serving infants, toddlers and pre-school aged children as are applicable to Part B and Part H funded programs. FY 1991 appropriations: N/A.

References: Title XIV, Education Amendments of 1978 (P.L. 95–561). 20 U.S.C. 921. C.F.D.A.: N/A.

NATIONAL LIBRARY SERVICE FOR PERSONS WHO ARE BLIND AND PHYSICALLY DISABLED

Under legislation initially enacted by Congress in 1904, the Library of Congress makes available free braille and recorded materials to individuals who are blind or have other physical disabilities. The program called "Books for the Blind and Physically Handicapped", distributes full-length books, magazines and musical scores (including instructional texts) in braille and on recorded disks and cassettes through a cooperative network of regional and local libraries. Materials are circulated free of charge to eligible borrowers. Eligibility for this service is extended to anyone who is unable to read or use standard printed materials as a result of temporary or permanent visual or physical limitations.

The original 1904 legislation authorized the mailing of free braille books to blind adults. In 1931, the Pratt-Smoot Act established a centralized national library service for adult blind readers, administered by the Library of Congress. The program was expanded in 1934 to include talking book services, at no cost to adult readers. The national books-for-the-blind program was extended to children in 1952, by an amendment that deleted the word "adult." Music instruction materials, texts and related information, including musical scores in braille, were added to the library services by 1962 amendments to the Act (P.L. 87–765).

Amendments in 1966 (P.L. 89–511 and P.L. 89–522) extended services to "other physically handicapped readers certified by a competent authority as unable to read normal printed materials as a result of physical limitations." FY 1991 appropriations (est.): $40.1 million.

References: Act to Provide Books for the Blind, as amended, P.L. 89–511 and P.L. 89–522. 2 U.S.C. 135a-135b. C.F.D.A.: 42.001.

IMPACT AID TO FEDERALLY AFFECTED AREAS

Legislation authorizing aid to local educational agencies in areas affected by federal activities was originally enacted in 1950 (P.L. 81–874 and P.L. 81–815). P.L. 81–874 was designed to assist local educational agencies whose enrollment or revenue base was adversely affected by federal activities. P.L. 81–815 was intended to provide assistance to school districts in constructing urgently needed facilities in federally impacted areas.

The Impact Aid Program is based on the assumption that federal activities, such as military bases and government offices, place a financial burden on school districts by reducing local tax revenues while increasing the number of children to be educated.

A local school district is eligible to receive Impact Aid if at least three percent of its enrollment, or 400 students, are from federally-connected families, or if more than 10 percent of the assessed valuation of all real property is acquired by the federal government. Such children are divided into two major categories (1) Section 3(a) children are youngsters living on, and having a parent employed on, federal property; and (2) Section 3(b) children are youngsters living on, or having a parent employed on federal property, or in the uniformed services. Funds are allocated to local education agencies through a formula based on the number of children counted as eligible under each category.

The Education Amendments of 1974 (P.L. 93–561) extended impact aid reimbursement for children with disabilities to those who are placed by the local education agency into special private schools or schools outside of the school district. FY 1991 appropriations (est.): (P.L. 81–815): $6.349 million; (P.L. 81–874): $740.9 million.

References: P.L. 81–874, as amended by P.L. 93–380 and P.L. 95–561. 20 U.S.C. 236 et. seq. C.D.F.A.: 84.041. P.L. 81–815, as amended by P.L. 83–246, P.L. 93–380, and P.L. 95–561. 20 U.S.C. 631–647. C.F.D.A.: 84.040.

THE TELEVISION DECODER CIRCUITRY ACT OF 1990

This Act (P.L. 101–431) requires new television sets with screens 13 inches or larger to have built-in decoder circuitry to display closed-captioned television transmissions, effective July 1, 1993. FY 1991 appropriations: N/A.

References: The Television Decoder Circuitry Act of 1990 (P.L. 101–431). C.F.D.A.: N/A.

EMPLOYMENT

JOB TRAINING PARTNERSHIP ACT

A. Overview

The basic aim of the Job Training Partnership Act (JTPA), originally enacted in 1982 (P.L. 97–300), is to train and place "economically disadvantaged" persons in the work force through joint public-private sector initiatives. The term "economically disadvantaged" may include youth and adults with disabilities who either qualify for federal, state or local welfare payments or meet the alternative economic need criteria specified below. The JTPA program is administered through the Governor's office in each state, with the active involvement of individuals or groups representing the public and private sectors.

As under an earlier statutory authority, the Comprehensive Employment and Training Act (CETA, P.L. 93–203), an individual's income is a prerequisite for JTPA eligibility. Specifically, to qualify for federally-subsidized job training under the JTPA program, an individual must be:

- receiving cash welfare payments;
- living in a family whose total income does not exceed the poverty level or 70 percent of the "lower living" income standard;
- receiving food stamps; or
- a foster child on behalf of whom state or local payments are made.

In addition, up to ten percent of JTPA service recipients may be individuals who are not economically disadvantaged but have encountered special barriers to employment; this group includes persons with disabilities. Under the terms of the Act, a "handicapped individual" is any individual who has a physical or mental disability which constitutes or results in a substantial handicap to employment.

The Job Training Partnership Act, as amended, consists of five titles. Title I establishes the local service delivery structure and planning requirements. Title II sets forth requirements for adult and youth training programs to be administered by the states and carried out through a partnership of state and local governments and the private sector. Title III authorizes discretionary and formula grant programs to provide training and related employment services for dislocated workers using a decentralized system of state and local programs. A variety of research and development programs are authorized under Title IV to assist in policy and program development related to human resources. Title IV also authorizes a demonstration program and the Job Corps and Veterans' Employment programs, while miscellaneous provisions related to other federal laws are contained in Title V.

B. Major Programs Affecting Persons with Disabilities

1. *Training Services for Disadvantaged Workers.* Title II-A of the Act authorizes a formula grant program to support training services for the eligible persons described above. Among the services that may be provided are job search assistance, job counseling, basic skills training, on-the-job training, programs to develop work habits, education-to-work transition activities, job development, follow-up services to individuals placed in unsubsidized employment, coordinated programs with other federal employment activities and customized job training with an agreement to hire upon successful completion of training. FY 1991 appropriations: $1.778 billion.

References: Title II-A, Job Training Partnership Act of 1982, P.L. 97–300. 29 U.S.C. 1501 et. seq. C.F.D.A.: 17.250.

2. *Pilot and Demonstration Programs*. Title IV of JTPA (Section 451) authorizes grants for pilot and demonstration programs that are administered at the national level and provide, foster, and promote job training and other services to individuals who have particular disadvantages in the labor market, including persons with disabilities. These programs must operate in more than one state. Similar single state programs are authorized under Section 453 of the Act. Funds are awarded on a competitive basis. Some projects under this section may be geared toward promotional, demonstration and developmental activities, as determined by the Secretary of Labor. The transition from school-to-work is one area that may be addressed by projects funded under this authority. During FY 1990, approximately 2,400 individuals with disabilities were expected to be placed in jobs through such Targeted Outreach Programs. FY 1991 appropriations: $36.2 million.

References: Title IV of the Job Training Partnership Act of 1982, P.L. 97–300. 29 U.S.C. 1731 and 1733. C.F.D.A.: 17.249.

3. *Employment and Training Research and Development Projects*. Title IV of the Act (Section 452) also authorizes a research grant program that supports employment and training studies leading to policy and program developments aimed at the fullest utilization of the Nation's human resources. Research and development projects intended to identify new approaches to training and placing individuals who face "particular disadvantages" or need "special assistance" in gaining a job (including persons with disabilities) also are supported under this section of the Act. Services are provided as part of such demonstration projects; however, the primary thrust is to develop new techniques to address specific training or employment problems. Approximately 35 new projects or major modifications in existing projects were initiated under this authority during FY 1990. FY 1991 appropriations: $12.9 million.

References: Title IV of the Job Training Partnership Act of 1982, P.L. 97-300, 29 U.S.C. 1732. C.F.D.A.: 17.248.

4. *Job Corps.* The Job Corps Program, authorized under Title IV, Part B of the Act, is a national program of residential and non-residential centers in which enrollees participate in education, vocational training and counseling to help them become employable, productive citizens. Generally, participants are between 16 and 22 years of age, but the age requirement may be waived for individuals with disabilities who are older than 22. Trainees receive a monthly allowance and readjustment payments when they leave the program. FY 1991 appropriations: $867.5 million.

References: Title IV of the Job Training Partnership Act of 1982, P.L. 97-300, 29 U.S.C. 1691 et. seq. C.F.D.A.: N/A.

C. Legislative History

The Job Training Partnership Act was enacted in 1982 (P.L. 97-300). The legislation revamped the much criticized Comprehensive Employment and Training Act (CETA) by emphasizing training for private sector jobs and eliminating federal aid for public service employment. In contrast to its predecessor program, the JTPA includes:

- enhanced private sector involvement;
- increased state responsibility for program administration and implementation;
- stricter performance criteria to ensure improved accountability on the part of program participants and administrators;
- specific programs tailored to distinct populations;
- a broader definition of individuals eligible for the program; and
- involvement of community-based organizations.

Two key mechanisms established under the Act are the "State Job Training Coordinating Council" and the "Private Industry Council". The "State Job Training Coordinating Council" is appointed by the

Governor of each state to plan, coordinate and monitor job training services under the Act. The Council designates service delivery areas, approves job training plans and allocates and oversees the use of federal funds. A "Private Industry Council" (PIC) is appointed to govern JTPA-funded activities in each service delivery area, performing functions comparable to the state council on a local level.

The Act states that education and training funds may be allocated to "any state education agency responsible for education and training services." This agency must enter into cooperative agreements with other appropriate state and local agencies for administration and implementation of the program, as a prerequisite to approval of its plan. Community-based organizations and other interested parties are encouraged to comment on the state's job training plan before it is finalized by the Governor.

The provision for a "prime sponsoring agency" that was so central to the operation of CETA programs, was eliminated under JTPA. However, cities and counties with a population of 200,000 or more are entitled to receive direct allocations under the Job Training Partnership Act. The remainder of a state's allocation under the Act are channeled through the Job Training Coordinating Council to specified services delivery areas.

The Act was amended in 1986 (P.L. 99–496) to include special consideration for persons with disabilities in the awarding of discretionary projects.

For the most part, JTPA funds benefiting persons with disabilities have been used to place persons with mild and moderate disabilities in community jobs. However, an increasing number of projects are being developed to place persons with severe disabilities into supported employment.

FAIR LABOR STANDARDS ACT

A. Overview

The Fair Labor Standards Act (FLSA) of 1938, as amended, establishes minimum federal requirements for hours of work, equitable wages, overtime pay, recordkeeping, and the conditions under which children may be employed. Over 50 million full- and part-time workers in the United States are covered by the provisions of the Act. In addition to its general requirements, the Act includes special provisions governing the employment of persons with physical and mental disabilities in sheltered workshops and similar work settings.

B. Major Provisions Affecting Persons with Disabilities

1. ***Certificates for Special Minimum Wages.*** Section 14 of the Act establishes requirements governing the employment of learners, apprentices, students and workers with disabilities. Section 14(c) authorizes the Secretary of Labor to issue special minimum wage certificates for workers with disabilities based on individual productivity. Wages paid to workers with disabilities must be "...commensurate with those paid to non-handicapped workers, employed in the vicinity in which the individuals under the certificate are employed, for essentially the same type, quality and quantity of work". Employers have to give the Secretary assurances that (a) the hourly wages paid each worker with a disability will be reviewed at least once every six months; and (b) such wages will be adjusted at least annually to reflect changes in wages paid to workers without physical or mental disabilities in the area for essentially the same type of work.

Under the terms of the Act, a worker with disabilities may petition the Secretary of Labor for a review of the applicable special minimum wage rate. The Secretary must then name an administrative law judge to hold a hearing. The employer bears the burden of proving that the wage rate is "...necessary to prevent the curtailment of opportunities for employment." According to the Act, Section 14(c) is not intended to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for clients with disabilities.

When Section 14(c) was added to FLSA in 1966, it required employers to pay at least 50 percent of the federal minimum wage to workers with disabilities, unless the state vocational rehabilitation agency certified that the individual was so disabled that he or she could not produce enough goods or services to justify such earnings. At the time, most sheltered workshop employees had physical disabilities. By the mid-1980s, Department of Labor statistics indicated that 87 percent of all disabled workers with special certifications had disabilities that were severe enough to exempt them from the 50 percent floor. Therefore, Congress amended Section 14(c) in 1986 (P.L. 99–486) to authorize the Secretary of Labor to issue a single type of certification, thus reducing the administrative burden on workshop operators.

2. ***Employees of an Enterprise Engaged in Commerce.*** Section 3 of the Fair Labor Standards Act specifies the types of employees covered by the provisions of the statute. In 1966, the Act was amended (P.L. 89–601) to revise the statutory definition of a business enterprise in order to include employees of institutions serving persons with disabilities. The following institutions were included under the

new definition: "a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institutions, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit)." This statutory application of the "enterprise test" was later revised under the Fair Labor Standards Amendments of 1989 (P.L. 101-157); however, coverage of the above listed entities was retained under the revised statutory definition.

As the result of a 1976 Supreme Court decision (National League of Cities v. Usery), federal minimum wage and hour requirements were found not to apply to employees of institutions operated by a state or local government agency. In the National League of Cities case, the Court ruled that it is unconstitutional for federal wage and hour standards to be imposed on state and local governments.

In 1985, the Supreme Court overturned the NLC decision by holding that the federal standards do apply to employees of state and local governments (Garcia v. San Antonio Metropolitan Transit Authority). In response, state and local officials complained that the Garcia decision would cost untold millions of dollars to implement. Subsequently, Congress passed an amendment to the Fair Labor Standards Act (P.L. 99-150), authorizing state and local governments to provide public employees with compensatory time in lieu of monetary compensation for overtime work. Compensatory time (or monetary payments) must be at a rate of one and one half hours for each hour of overtime worked.

In addition, the 1985 amendments added a new paragraph to the Act to clarify that individuals who perform voluntary services for state and local governments need not be regarded as "employees" under the statute. However, if an employee provides a service that is similar to the service he or she performs as a regular job, the state or local government must compensate the affected individual.

3. *Minimum Wage.* Under the provisions of P.L. 101-157, the federal minimum wage was increased in two stages from $3.35 an hour to $4.25 an hour. The second stage of this increase became effective on April 1, 1991. Congress also established a special, reduced "training wage" under the 1989 amendments to the Fair Labor Standards Act. Beginning April 1, 1991, the authorized training wage is $3.35 per hour or 85 percent of the regular minimum wage, whichever is higher.

References: Fair Labor Standards Act, as amended, P.L. 89-601, P.L. 95-151, P.L. 99-150, P.L. 99-486 and P.L. 101-157. 29 U.S.C. 201 et. seq. C.F.D.A.: N/A.

SMALL BUSINESS ACT

A. Overview

The Small Business Act of 1953, as amended, authorizes a series of programs designed to preserve competitive enterprise and strengthen the Nation's economy. The Act permits certain businesses operated by persons with disabilities to compete for small business procurement set asides and establishes two loan programs specifically aimed at expanding employment opportunities for persons with disabilities. Under one program, the Small Business Administration is authorized to make direct loans to enable public and private sheltered workshops and similar organizations to produce and provide marketable goods and services. The second loan program is designed to assist individuals with disabilities to establish, acquire or operate their own small businesses. In both cases, loans of up to $350,000 may be approved for a maximum period of 15 years, although the average loan is approximately $95,000.

The Act defines the term "handicapped individual" to mean: "a person who has a physical, mental or emotional impairment, defect, ailment, disease or disability of a permanent nature which in any way limits the selection of any type of employment for which the individual would otherwise be qualified or qualifiable."

B. Major Programs Affecting Persons with Disabilities

1. *Workshop Loans.* Handicapped Assistance Loans (HAL-1) may be awarded to help public and private sheltered workshops or similar organizations to construct facilities or acquire working capital, if such funds are not available from other governmental sources. Loans may not be used for training, education, housing or other supportive services for employees with disabilities. Eligible organizations must be operating in the interests of persons with disabilities and at least 75 percent of the work hours required for the direct production of commodities or the provision of services must be performed by such persons.

2. *Handicapped-Owned Businesses.* Handicapped Assistance Loans (HAL-2) to small business concerns may be used to (a) construct, expand, or convert facilities; (b) purchase building equipment or materials; and (c) provide working capital. Eligible small business concerns are those that are independently owned and operated, not dominant in their field, meet SBA requirements and which are 100 percent-owned by individuals whose disabilities are of such a nature as to limit them from engaging in "normal competitive business" without SBA assistance. FY 1991 appropriations (HAL-1) and (HAL-2): $12 million for direct loans.

References: Small Business Act of 1953, as amended. P.L. 92–595, P.L. 95–89 and P.L. 97–35. 15 U.S.C. 631 et. seq. C.F.D.A.: 59.021.

C. Legislative History

The 1972 amendments to the Small Business Act (P.L. 92–595) expanded the authority of the Small Business Administration to provide direct and guaranteed loans for (a) non-profit sheltered workshops employing persons with disabling conditions; and (b) individuals with disabilities interested in establishing their own businesses. The 1981 amendments to the Act (P.L. 97–35) raised the maximum amount of individual loans from $100,000 to $150,000. [N.B., The Act authorizes up to $350,000, but $150,000 is the usual loan amount.] The 1981 amendments also placed the Handicapped Assistance Loan Program administratively within the regular SBA loan system.

In 1977 (P.L. 95–89), Congress permitted small businesses eligible for Handicapped Assistance Loans to compete, on a one-year experimental basis, for federal procurement contracts set aside for small businesses. A total of $100 million in procurements was authorized. The Small Business Administration also was directed to submit a report to Congress on the impact such small business set aside had on organizations for individuals with disabilities. When the report was submitted, it noted that the program was not used by many workshops, probably because workshops were not aware of their potential eligibility. Under the provisions of the 1980 amendments to the Act (P.L. 96–302), the procurement authority for businesses owned by people with disabilities was continued for three years at an annual level of $100 million. In 1983, this special procurement set-aside program was discontinued.

The Small Business Administration Reauthorization and Amendment Act of 1988 (P.L. 100–590) enlarged the class of organizations eligible to receive Handicapped Assistance Loans to include both public and private entities. The 1988 amendments also defined the terms under which eligible organizations may receive HAL-1 loans and established a right of appeal for small businesses which experience, or are likely to experience, "severe, economic injury" as the result of a proposed HAL-1 award to an organization for people with disabilities.

WAGNER-PEYSER ACT

The Wanger-Peyser Act of 1933, as amended, authorizes the establishment and operation of the federal-state employment security system to help individuals find jobs and assist employers in locating qualified workers. Amendments to the Act in 1954 expanded the program by requiring every local employment services (or job service) office to designate at least one staff member to help individuals with severe disabilities in locating training resources and/or suitable employment. Amendments to the Act in 1982 required coordination between the state employment service and the local Job Training and Partnership Act program. JTPA also added incentives to states to serve special target groups, including persons with disabilities, and initiate support model projects, using Wagner-Peyser funds.

Applicants are considered disabled if they have physical, mental or emotional impairments that constitute an obstacle to employment. Alcohol and drug abusers are included. The goals of the Employment Service's program for persons with disabilities include (a) equal opportunity for employment and equal pay in competition with other applicants; (2) employment at the highest skill level permitted by an individual's occupational qualifications; (3) satisfactory adjustment to his/her chosen occupation and work situation; and (4) employment that will not endanger others or aggravate the individual's own disabilities. The Act also requires state employment services to coordinate their activities with state vocational rehabilitation agencies. FY 1991 appropriations: $805.1 million.

References: The Wagner-Peyser Act of 1933, P.L. 73–30, as amended. 29 U.S.C. 49 et. seq. Also, amended by Part V of the Job Training and Partnership Act (P.L. 97–300). C.F.D.A.: 17.207.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT

The Public Works and Economic Development Act of 1956 (P.L. 89–136), as amended, authorizes project grants and loans to assist in the construction of public facilities needed to initiate and encourage long-term economic growth in specified geographic areas. The Act also provides funding for construction projects aimed at furnishing immediate employment in areas of high or sudden unemployment. Although the construction of vocational schools used to be considered an appropriate public works project, such projects are no longer funded.

In 1977, amendments to the Public Works Employment Act (P.L. 95–28) added a new requirement that applicants for public works projects give assurances to the Department of Commerce that their proposed projects comply with standards for accessibility by persons with disabilities, as set forth under the Architectural Barriers Act of 1968. The Architectural and Transportation Barriers Compliance Board is authorized to ensure that all new buildings and facilities meet accessibility standards, when that is appropriate.

References: Public Works and Economic Development Act of 1965, P.L. 89–136, as amended by P.L. 94–369, P.L. 94–487, P.L. 95–28 and P.L. 98–166. 42 U.S.C. 3121 et. seq. C.F.D.A.: 11.300, 11.304 and 11.307.

TARGETED JOBS TAX CREDIT

In 1977, through the Tax Reduction and Simplification Act (P.L. 95–30), Congress authorized a special tax credit to induce businesses to hire certain categories of chronically unemployed workers, disadvantaged youth, welfare recipients and other hard to place persons, including individuals with disabilities. As part of the Tax Reform Act of 1986 (P.L. 99–514), this "targeted jobs tax credit" was extended through December 31, 1988. The authority for these tax credits was extended for additional periods under the provisions of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100–647), the Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239), the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) and the Expired Tax Provisions Act of 1991 (P.L. 102–227). They are currently scheduled to expire on June 30, 1992, unless legislation authorizing a further extension is enacted by Congress.

The amount of the tax credit is 40 percent of the first $6,000 in wages; there is no credit after the first year of employment. For an employer to qualify for the credit, a worker must have been employed for at least 90 days or have completed at least 120 hours of work for the employer.

References: Tax Reduction and Simplification Act, P.L. 95–30 and Tax Reform Act of 1986, P.L. 99–514, as amended by P.L. 100–647, P.L. 101–239, P.L. 101–508 and P.L. 102–227. 26 U.S.C. 1 et. seq. C.F.D.A.: N/A.

FEDERAL EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES

The Rehabilitation Act of 1973, as amended, authorizes the establishment of the Selective Placement Program, which enables the federal government to employ persons with physical or mental disabilities in positions for which they qualify. The Selective Placement Program is concerned principally with providing assistance to agencies and developing methodologies related to referral, placement, special appointing authorities and retaining federal employees who become disabled for one position but may qualify for another. Implementation of the program involves coordination with state vocational rehabilitation agencies and other public or private agencies concerned with the rehabilitation of persons with disabilities. FY 1991 appropriations: $90,000.

References: Rehabilitation Act of 1973, P.L. 93–112, as amended; P.L. 93-508, P.L. 93–516, P.L. 95–454, P.L. 95–602 and P.L. 96–923. 29 U.S.C. 770. C.F.D.A.: 27.005.

HANDICAPPED FEDERAL EMPLOYEES PERSONAL ASSISTANTS

The Federal Advisory Committee Act was amended in 1980 (P.L. 96–523) to permit the employment of personal assistants for federal employees with disabilities both at their regular duty station and while on travel status. The Act uses the Rehabilitation Act definition (Section 501) of individuals with disabilities. Personal assistants includes readers for individuals who are blind or interpreters for individuals who are deaf. Such assistants are employed directly by the federal agency.

References: Title V of the U.S. Code, as amended by P.L. 96–523. 29 U.S.C. 791 and 5 U.S.C. 3102 et. seq. C.F.D.A.: N/A.

HEALTH

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

A. Overview

The Social Security Act of 1935 included an entitlement program aimed at improving health care for mothers and young children. Title V of the current Act authorizes block grants to enable states to maintain and strengthen their leadership in planning, promoting, coordinating and evaluating the needs of mothers and children who do not have access to adequate health care.

States may use MCH block grant funds for the provision of health services and related activities, including planning, administration, education and evaluation activities that are consistent with the description of intended expenditures and statement of assurances contained in the Act.

In particular, Section 501 authorizes the states to use MCH block grant funds to:

- assure mothers and children—especially those with low income or limited availability to health services—access to quality maternal and child health services;
- reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;
- reduce the need for in-patient and long term care services;
- increase the number of children who are appropriately immunized against disease;
- increase the number of low income children receiving health assessments and follow up diagnostic and treatment services;
- promote the health of mothers and children, especially by providing preventive and primary care services for children and prenatal, delivery and post-partum services for low income mothers;
- provide rehabilitation services for individuals under the age of 16 who are blind or disabled and receiving Supplemental Security Income benefits;

- provide and promote family-centered, community-based, coordinated care, particularly for children with special health care needs; and
- facilitate the development of community-based service systems for children with special health care needs and their families.

Title V funds may not be used by a state for:

- inpatient services other than those provided to children with special health care needs or to high risk pregnant women and infants and other in-patient services approved by the Secretary of HHS;
- cash payments to recipients for health care services;
- the purchase and improvement of land, construction or permanent improvement of buildings or purchase or major medical equipment (unless a Secretarial waiver is obtained);
- matching other federal grants;
- providing funds for research or training to any entity other than a public or private nonprofit organization; or
- purchasing items or services furnished by practitioners who are excluded from participation in Medicare or state health care programs.

B. Programs Affecting Persons with Disabilities

Fifteen (15) percent of the first $600 million appropriated each year for the MCH block grant program are to be set aside by the Secretary of Health and Human Services for special projects of regional or national significance, research and training grants to institutions of higher learning. These grant funds historically have been used for a variety of purposes, including supporting projects to screen for genetic disorders and sickle cell anemia as well as university affiliated training programs for people with developmental disabilities.

The remaining 85 percent of appropriated funds are allotted among the states based on a formula that takes into account the relative number of low income children in the state and the amounts of federal aid each state received under several former categorical child health programs. In order to receive its allotment under Title V, each state must submit to the Department of Health and Human Services an application including (a) a statewide needs assessment (to be conducted once every five years); (b) a plan to meet those needs; (c) and a description of how the state's block grant allotment will be used. Beginning in FY 1991, a state must use at least 30 percent of its MCH block grant allotment to provide preventive and primary care services to children and at least 30 percent for services to children with special health care needs. Not more than 10 percent of a state's allotment may be used to cover administrative costs.

The state agency that administers the MCH block grant program must coordinate its activities with the state's Early and Periodic Screening Diagnosis and Treatment program, other Medicaid services and other federal grant programs (e.g., nutrition, education, health or developmental disabilities services). States are required to submit annual reports to HHS on their maternal and child health programs. FY 1991 appropriations: $470.6 million.

References: Title V, Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1981, P.L. 97–35 and the Omnibus Budget Reconciliation Act of 1989, P.L. 101–239. 42 U.S.C. 701. C.F.D.A.: 93.994.

C. Legislative History

The Nation's first health services formula grant program, enacted in 1921, was the predecessor of today's Maternal and Child Health Block Grant Program. The Act, which was in force through 1929, was known as the Sheppard-Tower Act or the Maternity and Infant Act.

In 1935, the Sheppard-Tower Act was revitalized and greatly expanded under Title V of the Social Security Act (P.L. 74–271). For the first time, the legislation established a federal-state system of crippled children's services. In addition, a centrally-administered special fund was created to support demonstration projects and the training of personnel.

In 1963, Congress amended Title V (P.L. 88–156) to establish a new project grant program to improve prenatal care for women from low income families where the risk of mental retardation and other birth defects was known to be inordinately high. In addition, authorizations for grants to the states under the Maternal and Child Health and Crippled Children's programs were increased and a research grant program was added to support studies "which show promise of substantial contribution to the advancement" of such services programs. These amendments to Title V were part of a legislative package submitted to Congress by the Kennedy Administration to implement recommendations contained in the October, 1962 report of the President's Panel on Mental Retardation.

The Social Security Act Amendments of 1965 (P.L. 89–97) authorized special project grants for the development of comprehensive maternal and child health care services and grants for multidisciplinary training of specialists to work with children who had disabling conditions. The latter program was intended to provide support for training activities in university affiliated facilities for persons with mental retardation (see Developmental Disabilities Assistance and Bill of Rights Act under "Social Services" section of this report).

The 1965 amendments to the Social Security Act also initiated a project grant program to improve health and related services to preschool and school-aged children in low-income neighborhoods. Programs developed under this authority were aimed at demonstrating that early attention to potentially disabling conditions could improve the prospect that at-risk children would live more productive and healthy lives.

The Social Security Amendments of 1967 (P.L. 90–248) consolidated maternal and child health and crippled children's services under a single grant authority, with a funding split of 50 percent for formula grants, 40 percent for project grants and 10 percent for research and training. Effective July 1, 1972 (the effective date was later extended to July 1, 1973 by P.L. 92–345, then to July 1, 1974 by P.L. 93–53), the 40 percent set aside for special projects was to be added to the states' formula grants, with the result that 90 percent would be allocated directly to the states through the MCH/CC formula grant program. However, states were required to include in their Title V plans, provisions for conducting activities similar to those previously authorized under these special project grant authorities. The ten percent allocated to research and training continued to be awarded by the Department through project grants.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97–35) consolidated the six programs authorized under Title V of the Social Security Act into a single state block grant authority (i.e., the state grants-in-aid program for maternal and child health and crippled children's services, the SSI Disabled Children's program, and grant support for the prevention of lead-based paint poisoning, sudden infant death syndrome, hemophilia treatment centers, an adolescent pregnancy program and a genetic screening program). In FY 1982, fifteen percent of funds under the Maternal and Child Health Block Grant program were set aside for Special Projects of Regional and National Significance (SPRANS). These monies were earmarked to support personnel preparation and research activities conducted in a variety of loci, including genetic disease projects, regional hemophilia diagnostic and treatment centers, pediatric pulmonary care centers and university affiliated programs serving persons with developmental disabilities.

In 1985, Section 9527 of the Consolidated Omnibus Budget Reconciliation Act (P.L. 99–272) eliminated references to "crippled children" in Title V and substituted terminology referring to "children with special health care needs".

The Omnibus Budget Reconciliation Act of 1986 (P.L. 99–509) raised the ceiling on appropriations for the MCH program and set aside certain percentages for designated purposes. The law required the following:

- a set percentage (7 percent in FY 1987) was to be spent to support projects designed to identify newborns with sickle-cell anemia and other genetic disorders;
- two-thirds of the funds above the base allotments were to be used by the Secretary of HHS to promote general improvements and expansions in MCH services, while one-third was to be used for the provision of specialized health care services for children;
- states could use their share of the set aside funds to provide primary health care to children and to establish community-based service networks as well as provide case management services for children with special health care needs;
- the Secretary was directed to use the Department's share to support Special Projects of Regional and National Significance (SPRANS) which would further such state and local efforts; and
- any new funds would have to be allotted according to the same statutory formula detailed in the law.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203) increased funding levels for the MCH program, but retained the same distributional requirements as P.L. 99–509. The allocation of federal block grant funds was altered once again under the provision of the Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239). During each fiscal year, fifteen (15) percent of the total appropriated (up to a total appropriation of $600 million) for the MCH block grant program was to be retained by the Secretary for research and training activities aimed at improving health care for mothers and children. Of any amounts in excess of $600 million, 12 3/4 percent was to be set aside for a variety of special projects of national significance. The balance of all appropriated funds were to be divided among the fifty states/territories, in accordance with the formula discussed above.

The 1990 amendments also specified that states were to use at least 30 percent of their block grant allocations to improve services for children with special health care needs and at least 30 percent for preventive and primary care services. However, states also were required to maintain their FY 1989 level of funding for maternal and child health programs.

MEDICARE (HEALTH INSURANCE FOR THE AGED AND DISABLED)

A. Overview

Title XVIII of the Social Security Act authorizes health insurance benefits for eligible persons who are elderly (65 years of age or older) or disabled. Under this so-called Medicare program, direct payments are made for medical services on behalf of eligible participants. The program is federally-financed and administered by the Health Care Financing Administration within the U.S. Department of Health and Human Services, with local administration carried out by fiscal intermediaries—usually private health insurance companies.

Title XVIII of the Social Security Act is divided into three parts. Part A authorizes hospital insurance benefits, while Part B provides for supplemental medical insurance benefits. Part C of Title XVIII contains miscellaneous provisions, including definitions of terms and coverage parameters for persons suffering from end stage renal disease.

Basic eligibility for Medicare benefits is extended to persons over age 65 who qualify for Social Security benefits. The following categories of persons with disabilities, however, also are eligible for Medicare coverage if they meet other statutory tests of eligibility after they complete a twenty-four month waiting period:

- Disabled workers who have met the Social Security FICA contribution requirements prior to the onset of their disability and no longer are capable of engaging in substantial gainful activity;
- Persons severely disabled during childhood who are the dependents of Social Security beneficiaries who have either died, retired or are themselves eligible for disability benefits;
- Disabled widows and widowers aged 50 and older; and
- Any individual suffering from end stage renal (kidney) disease.

B. Major Programs Affecting Persons With Disabilities

1. *Hospital Insurance.* The Part A hospital insurance program reimburses participating and emergency hospitals, nursing facilities, home health agencies and hospices for the reasonable cost of furnishing medically necessary inpatient and (limited) in-home services to eligible individuals. Inpatient hospital stays are covered for the first 60 days in a benefit period with a deductible paid by the beneficiary. A per diem co-insurance payment also is required for hospital stays from the 61st through the 90th day. A per diem co-insurance payment also required for care provided in a skilled nursing facility after the

20th day of a benefit period. Post-hospital home health care services are reimbursable in full. FY 1991 appropriations (est.): $68.9 billion .

References: Part A. Title XVIII. Social Security Amendment of 1965. as amended. P.L. 89–97. P.L. 90–248. P.L. 92–603. P.L. 93–233. P.L. 94–182. P.L. 94–437 and P.L. 95–292. P.L. 96–265. P.L. 97–248. P.L. 98–21. P.L. 98–369. P.L. 98–460. P.L. 99–272. P.L. 99–509. P.L. 100–203. P.L. 100–360. P.L. 101–234. P.L. 101–239 and P.L. 101–508. 42 U.S.C. 1395. et. seq. C.F.D.A.: 93.773.

2. *Supplementary Medical Insurance.* The Part B Supplementary Medical Insurance program provides medical insurance protection for persons age 65 or older and to certain persons with disabilities. Benefits are paid on the basis of reasonable charges and fee schedules for covered services furnished by physicians and other suppliers of medical services. Payments are based on reasonable cost or charges for covered services furnished by providers such as hospitals or home health agencies. All eligible persons may voluntarily enroll for Part B services. The enrollee pays a monthly premium, which currently is $29.90 per month. In certain instances, states and other third parties may pay the premium on behalf of eligible individuals. FY 1991 appropriations (est.): $44.549 billion.

References: Part B. Title XVIII. Social Security Amendments of 1965. as amended. P.L. 89–97. P.L. 90–248. P.L. 92–603. P.L. 93–233. P.L. 94–182. P.L. 95–210. P.L. 95–292. P.L. 96–265. P.L. 97–248. P.L. 98–21. P.L. 98–369. P.L. 98–460. P.L. 99–272. P.L. 99–509. P.L. 100–203. P.L. 100–360. P.L. 101–234. P.L. 101–239 and P.L. 101–508. 42 U.S.C. 1395. et. seq. C.F.D.A.: 93.774.

3. *Renal Disease Program.* Under the End Stage Renal (kidney) Disease program, Medicare coverage is provided to help individuals under age 65 meet the cost of services and supplies furnished in connection with the treatment of chronic end stage renal disease. [N.B., Renal disease patients age 65 and over are protected under the regular Medicare program.] Generally, coverage includes inpatient hospital costs associated with dialysis and kidney transplants, the cost of physician services, outpatient hospital services and other out-of-hospital medical services and supplies. FY 1991 appropriations: subsumed within costs of the Part A and Part B programs.

References: Part C. Title XVIII. Social Security Act of 1965. as amended. P.L. 92–603. P.L. 95–292 and P.L. 98–369. 42 U.S.C. 1395. C.F.D.A.: N/A.

C. Legislative History

The Social Security Amendments of 1965 (P.L. 89–97) established the Medicare program under a new Title XVIII of the Act. In 1967, the Secretary of Health, Education, and Welfare was directed to establish an advisory council to study the question of providing health insurance coverage for Social Security beneficiaries with disabilities (P.L. 90–248). The Advisory Council was to report its findings and recommendations to the Secretary by January 1, 1969.

Under the Social Security Amendments of 1972 (P.L. 92–603), Medicare coverage was authorized for Social Security beneficiaries with disabilities after they fulfilled a 24 month waiting period. The 1972 amendments also extended Medicare reimbursement to persons with end-stage renal disease. In 1978, the Title XVIII renal disease program was revised (P.L. 95–292) to authorize cost-saving incentives and allow more flexibility in utilizing different modes of treatment for renal disease, kidney dialysis and transplantation.

In 1980, Title XVIII was amended to permit Medicare, Part B reimbursement for "comprehensive outpatient rehabilitation facilities" (P.L. 96–499). The Act defines such a facility as one which (a) is primarily engaged in providing diagnostic, therapeutic or restorative services, by or under the direction of physicians, to "injured, disabled or sick persons"; (b) provides at a minimum physician services, physical therapy and social or psychological services; (c) maintains clinical records and written policies; (d) requires every recipient to be under the care of a physician; and (e) meets state and local licensing laws and other conditions of participation established by the U.S. Department of Health and Human Services. [N.B., The program did not become operational until regulations were published in late 1982.]

The Social Security Amendments of 1983 (P.L. 98–21) authorized states to establish a prospective payment system for Part B benefits under Medicare, based on diagnostic related groups (DRGs). The new payment system also was required to take into account capital-related costs. P.L. 98–21 explicitly limited the system to hospitals other than (a) psychiatric hospitals; (b) rehabilitation hospitals; (c) hospitals whose inpatients are predominantly under the age of eighteen; and (d) hospitals with an average inpatient length of stay that is greater than 25 days.

The Deficit Reduction Act of 1984 (P.L. 98–369) made several amendments to the Medicare program including technical amendments to the DRG system, a mandate for a study of Part B payments to eliminate inequities in the system and increase physician participation in Medicare, and a limitation on payments to skilled nursing facilities. In addition, P.L. 98–369 regulated payments for "durable medical equipment" (including respirators and wheelchairs) furnished as a home health benefit and authorized coverage of Hepatitis B vaccines for individuals at high or intermediate risk of contracting the disease.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99–272) amended the Medicare program to allow physical therapists to supervise home health programs, added further incentives to encourage physician participation in the program, and authorized a four year, five site demonstration program to reduce disability and dependency through the provision of preventive services to Medicare beneficiaries.

The "Medicare and Medicaid Patient and Program Protection Act of 1987" (P.L. 100–93) established a program to protect beneficiaries under Titles XI, XVIII and XIX of the Social Security Act from unfit health care practitioners and to improve antifraud provisions of the Act.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203) included the following amendments to the Medicare program as it related to people with disabilities:

- the Act authorized OASDI beneficiaries to re-establish eligibility for Medicare coverage immediately after being off the rolls for five years (seven years for disabled widows/widowers and people disabled since childhood);
- the Act increased the maximum annual limit on Part B mental health benefits from $250 to $1,100 and added "partial hospitalization" as a Part B mental health benefit;
- P.L. 100–203 authorized direct payment for the services of psychologists in community mental health centers; and
- the Act specified that the Secretary of HHS may not require comprehensive outpatient rehabilitation facilities to limit their services to a single location in order to qualify for Medicare reimbursement, as long as such services are furnished as an integral part of a beneficiary's rehabilitation plan.

In 1988, Congress enacted legislation (P.L. 100–360) to expand Medicare coverage to protect an estimated 29 million elderly Americans and 3 million beneficiaries with disabilities against catastrophic health care costs. Under this plan, which was repealed a year later (P.L. 101–234) due to public opposition to the higher Social Security taxes needed to finance the new benefits, Medicare would have covered (a) all costs of hospital services after the beneficiary paid a single, annual deductible (estimated at $564 in 1989); (b) all costs of outpatient services under Part B after a beneficiary's out-of-pocket costs exceeded a specified cap; and (c) part of the costs of prescription drugs and mammography examinations.

Under the Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239), Congress (a) authorized direct reimbursement for mental health services provided by clinical psychologists and clinical social workers; (b) increased the annual limit on Medicare payments for physical and occupational therapy from $500 to $750; and

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(c) froze payments for durable medical equipment (including wheelchairs and lifts) at the 1989 levels.

In 1990, Congress required hospitals, nursing homes, home health agencies, hospice programs and health maintenance organizations participating in the Medicare and/or Medicaid programs to provide written information to all adult patients concerning rights established under state law to make decisions concerning their medical care, including the right to accept or refuse medical/surgical treatment and the right to formulate advance directives such as living wills. Under this same legislation (P.L. 101-508), Congress made a variety of other changes in Parts A and B of the Act, including: (a) freezing for one year payments to freestanding and hospital-based kidney dialysis facilities; and (b) authorizing a pilot program to evaluate the safety and cost-effectiveness of staff-assisted home dialysis services.

MEDICAID (GRANTS TO STATES FOR MEDICAL ASSISTANCE)

A. Overview

Title XIX of the Social Security Act contains the statutory authority for the federal-state Medical Assistance program, or, as it is better known, the Medicaid program. Initially authorized under the Social Security Act of 1965, the statutory goal of the program is to improve the accessibility and quality of medical care for all low income Americans.

Although the 1965 legislation contained no special provisions related to individuals with disabilities, in recent years Medicaid has emerged as a primary source of funding for services to individuals with severe disabilities, both because the incidence of disability is higher among low income groups and due to subsequent amendments to the Act which have added specialized benefits for institutionalized people with mental illness and mental retardation.

Eligibility for medical assistance is based on financial need. Individuals with disabilities may be eligible, if they meet the following general criteria:

- *categorically needy*. States must cover (a) all persons receiving cash benefits under Title IV-A of the Social Security Act (Aid to Families with Dependent Children); and (b) either all persons receiving cash benefits under Title XVI of the Act (Supplemental Security Income) or, at least, those who meet additional, more restrictive Medicaid-eligibility requirements established by the particular state;
- *medically needy*. In addition to categorically needy persons, states may elect to cover under their Medicaid plans certain groups of

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individuals whose incomes are higher than the SSI or AFDC maximums, but who cannot afford needed medical treatment and care. A separate income level is established for these "medically needy" groups, which varies from state-to-state, and

- *qualified severely impaired individuals.* Certain individuals under the age of 65 who receive federal SSI (or state supplemental) payments on the basis of blindness or disability also are eligible for Medicaid benefits, in conformance with Section 1619(a) and (b) of the Social Security Act (see discussion under Supplemental Security Income program in the "Income Maintenance" section below). Generally, such individuals are capable of gainful employment, but do not have sufficient earnings to maintain a reasonable standard of living and also pay for health care coverage.

Federal payments are available to match state expenditures for covered forms of medical care and assistance on behalf of eligible individuals, as specified under an HHS-approved state plan. The federal share of reimbursable costs ranges from 50 percent to 83 percent, according to a formula which takes into account the state's relative per capita income and medical assistance expenditures.

States are required under Title XIX to provide the following types of services to categorically-needy Medicaid recipients without charge (a) inpatient hospital services (except services in an institution for mental diseases); (b) outpatient hospital services; (c) laboratory and X-ray services; (d) skilled nursing facility services (other than in an institution for mental diseases) and home health services for individuals over 21 years of age; (e) physician services; (f) early periodic screening, diagnosis and treatment (EPSDT) services for individuals under age 21; (g) family planning services; and (h) certain rural health clinic services.

States may limit the amount, duration and scope of such mandated services (e.g., limits on the number of days in a hospital or visits by a home health aide are permissible under federal law), as long as adequate care is provided. In addition, states are required to (a) make arrangements to assure that recipients can get to and from needed medical services; (b) allow recipients the freedom to choose among qualified providers of care; and (c) assure recipients access to health services on a statewide basis.

States are permitted to offer the following types of optional services, provided they are specified in the state's approved Medicaid plan (a) private duty nursing services; (b) clinic services; (c) dental services; (d) physical therapy, occupational therapy and treatment for speech, hearing and language disorders; (e) prescribed drugs, dentures, prosthetic devices and eyeglasses; (f) other diagnostic, screening and rehabilitative services; (g) intermediate care facility services (including specialized ICF services for persons with mental retardation); (h) inpatient psychiatric services for individuals over age 65 and under age 21; (i) case management services targeted to one or more specific groups of Title XIX-eligible persons; (j) home and community-based services for frail elderly individuals*; (k) community supported living arrangements services for persons with mental retardation and related conditions*; and (l) any other type of medical or remedial care recognized under state law and approved by the Secretary of Health and Human Services. In addition, the Secretary is authorized to grant waivers to allow a state, upon its request, to offer Medicaid-reimbursable home and community based services (other than room and board) to individuals who, but for the provision of these services, would require care in a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded.

B. Major Programs Affecting Persons With Disabilities

Medicaid provides each participating state with broad flexibility in designing a medical assistance program which meets the needs of its citizenry; as a result, Medicaid programs differ markedly from state to state. FY 1991 appropriations: $51.554 billion.

1. *Intermediate Care Facilities for the Mentally Retarded.* Under Section 1905(d) of the Act, states are permitted to cover, as an optional service under their Medicaid plans, intermediate care facility services for individuals with mental retardation and related conditions (ICF/MR). The primary purpose of the ICF/MR program is to provide health or rehabilitative services for individuals with mental retardation and related conditions who require "active treatment" services provided in a comprehensive, facility-based setting. To qualify for ICF/MR services, an individual must be either mentally retarded or have a related condition and need "active treatment" services. To be reimbursed for ICF/MR services provided on behalf of such individuals, a facility must ensure that it is providing "active treatment in accordance with an individual habilitation plan developed for each resident". In addition to funding large, comprehensive public and private institutions, the ICF/MR program also is a source of funding for community residential facilities, including facilities with fifteen or fewer (but no less than four) residents. All ICF/MRs must comply with standards promulgated by the Secretary of HHS. Compliance with these standards is monitored by a designated state agency, called the state survey agency, which operates under a contractual agreement with the single state Medicaid agency. Survey and certification decisions made by the state, however, are subject to review by the Secretary through direct validation surveys (often referred to as "look behind" reviews).

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*Certain limitations and restrictions apply to coverage of these optional services, as indicated below.

References: Title XIX of the Social Security Act, as amended. P.L. 92–223, P.L. 92–603, P.L. 93–66, P.L.93–233, P.L. 96–499, P.L. 97–35, P.L. 97–248, P.L. 98–369, P.L. 99–272, P.L. 99–509 and P.L. 100–203. 42 U.S.C. 1396d et. seq. C.F.D.A.: N/A.

2. *Home and Community-Based Waiver Services.* Under Section 1915(c) of the Social Security Act, the Secretary of HHS is authorized to waive certain federal requirements in order to enable states to offer services (excluding room and board costs) to individuals who, in the absence of such services, would require institutional care in a Title XIX-certified facility. In order to qualify for such a waiver, a state must (a) determine that eligible individuals would otherwise require care in a Title XIX-certified facility; (b) establish that it is reasonable to furnish such individuals with alternative home or community-based services; (c) provide for the development of individual service plans for each waiver recipient; and (d) determine that the alternative services provided to such individuals will not result in per capita expenditures greater than those that would be incurred if the person were institutionalized. The following services may be offered as part of a state's home and community-based waiver program: case management, habilitation (including, for former institutional residents with developmental disabilities only, certain educational, prevocational training and supported employment services), homemaker/home health aide services, personal care services, adult day health services, respite care, and other services requested by the state and approved by the Secretary.

Traditional health and medical services also may be furnished as part of a Section 1915(c) waiver program, such as private duty nursing care, medical supplies, physical, occupational and speech therapy and audiology, or, alternatively, they may be provided as regular state plan services. A state is permitted, under a HCB waiver, to limit the amount, scope and duration of services provided to eligible individuals. In addition a state may provide HCB waiver services on less than a statewide basis. Initial waivers are granted for a period of three years; waivers may be renewed for periods of up to five years at a time. The Secretary of HHS must approve a waiver within 90 days of a state's submittal, unless the Secretary needs more information, in which case a second 90 day period begins upon receipt from the state of the information requested.

References: Title XIX of the Social Security Act, as amended by P.L. 97–35, P.L. 97–248, P.L. 98–369, P.L. 99–272, P.L. 99–509, P.L. 100–203, P.L. 100–360, P.L. 100–647, P.L. 101–239 and P.L. 101–508. 42 U.S.C. 1396m. C.F.D.A.: N/A.

3. *Psychiatric Services for Children*. Medicaid reimbursement is available to states to cover inpatient psychiatric hospital services for individuals under 21 years of age. To qualify for such coverage under a state's Medicaid program, an inpatient facility must provide children with active treatment services, as defined by the Secretary, and must furnish all services in accordance with specifications developed by a team of physicians and other qualified mental health personnel. The team must determine that inpatient services are necessary and can reasonably be expected to improve the child's condition.

References: Title XIX of the Social Security Act, as amended. P.L. 93-66, P.L. 93-233, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396d. C.F.D.A.: N/A.

4. *Psychiatric Services for Older Individuals.* States may elect to include in their Medicaid plans services to individuals, 65 years of age or older, who are patients in institutions for mental diseases (IMD). Each IMD resident must be served in accordance with an individual plan and the state must assure HHS that there will be a periodic determination of each individual's need for continued treatment in the institution. If a state plan includes this optional service, the state must also demonstrate that it is making satisfactory progress toward developing and implementing a comprehensive mental health program, including utilization of community mental health centers, nursing facilities and other alternatives to care in public IMDs.

References: Title XIX of the Social Security Act, as amended. P.L. 89-97, P.L. 90-248, P.L. 91-56, P.L. 92-223, P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 94-182, P.L. 95-142, P.L. 95-210, P.L. 96-499, P.L. 97-35, P.L. 97-248, P.L. 98-369, P.L. 99-272, P.L. 99-509 and P.L. 100-203. 42 U.S.C. 1396a. C.F.D.A.: N/A.

5. *Nursing Facility Services.* In 1987, Congress amended Title XIX to impose new statutory requirements governing the certification and operation of Medicare and Medicaid-funding nursing homes (P.L. 100-203). In addition, to eliminate the previous statutory distinction between skilled nursing and intermediate care facilities and establishing detailed operating policies applicable to "nursing facilities", P.L. 100-203 required all states participating in the Medicaid program to (a) establish, by January 1, 1989, a program to screen out all applicants with mental illness, mental retardation or related conditions who cannot be served appropriately in a nursing facility (NF) due to their specialized service needs; (b) complete an annual review of all current NF residents with mental illness, mental retardation and related conditions to identify any such individuals who are receiving inappropriate or inadequate services; and (c) take steps to eliminate inappropriate NF placements involving residents with mental illness, mental retardation or related conditions by either transferring such individuals to other residential settings or arranging for provisions of the specialized settings they need. With respect to the latter actions, the legislation, as subsequently amended in 1990, authorizes the Secretary of HHS to grant states up to an additional four years (or through April, 1994) to complete such dispositional activities upon the submission of an approvable plan.

References: Title XIX of the Social Security Act, Section 1919, as added by P.L. 100–203, and amended by P.L. 100–360, P.L. 101–239 and P.L. 101–508. 42 U.S.C. 1396r, et. seq.
C.F.D.A.: N/A.

6. *Community Supported Living Arrangements Services.* In 1990 amendments to Medicaid law, Congress established a new, limited purpose state plan option for persons with mental retardation and related conditions called "community supported living arrangements" (CSLA) services. Under this new authority, contained in Section 1930 of the Act, the Secretary of HHS was authorized to select (on a competitive basis), two to eight states to offer CSLA services as an optional coverage under their Medicaid state plans.

The legislation specifies that the selected states will be permitted to cover the following elements of CSLA services (a) personal assistance; (b) training and habilitation services needed to help recipients attain increased independence, productivity and community integration; (c) 24–hour emergency assistance; (d) assistive technology; (e) adaptive equipment; (f) support services necessary to aid an individual in participating in community activities; and (g) other services requested by the state and approved by the Secretary. Participating states are required to furnish such services in accordance with an "individual support plan" and may not claim federal financial participation in the cost of room and board costs or the cost of prevocational or vocational services.

The principal thrust of this new state plan option is to allow people with developmental disabilities to live in their own homes or the homes of their families. Consequently, the legislation limits the maximum number of CSLA participants who may live in any given home/apartment to four.

In order to qualify for this coverage option, a state is required to establish and maintain a quality assurance plan that meets certain statutory specifications and also comply with certain minimum protections outlined in Section 1930. Furthermore, participating states are obligated to: (a) maintain their current level of expenditures for community supported living services; and (b) hold public hearings on their quality assurance plans before submitting coverage applications to HHS.

Total federal financial participation in the cost of CSLA services is limited to: $5 million in FY 1991, $10 million in FY 1992; $20 million in FY 1993, $30 million in FY 1994; $35 million in FY 1995 and "such sums as provided by Congress" in subsequent fiscal years.

References: Title XIX of the Social Security Act, as amended by P.L. 101–508. 42 U.S.C. 1396. C.F.D.A.: N/A.

C. Legislative History

The 1965 amendments to the Social Security Act (P.L. 89–97) added a new Title XIX, authorizing grants-in-aid to the states for the establishment of medical assistance programs. Now known as Medicaid, this program expanded the previous "Kerr-Mills" program of medical aid for needy dependent children as well as low income persons who were aged, blind, or disabled. Medicaid was aimed at individuals receiving public assistance, but also permitted states to extend coverage to certain groups with incomes above the qualifying level for welfare payments. This group was referred to as the "medically" needy. The initial statutory goal of the program was to initiate, in all participating states, a program of comprehensive health care for needy persons. The 1985 amendments included statutory authority for federal assistance to low income elderly persons residing in mental institutions. This coverage could be offered at the state's option.

In the context of P.L. 89–97, the provisions establishing the Medicaid program were intended to complement the statutory authority for the Medicare program (see discussion above) which was included in the same legislation. Medicaid (Title XIX), however, differs from Medicare (Title XVIII) in the following fundamental ways: (1) Medicare is a social insurance program, under which recipients are eligible regardless of their income and resources, if they contributed to Social Security; Medicaid, on the other hand, is a program for individuals receiving federal cash assistance (welfare) payments or who otherwise are financially needy; (2) Medicare is administered and funded entirely by the federal government; Medicaid is administered by the states and funded jointly by federal and state contributions; and (3) states have the option of covering a broader range of medical services—particularly long term care services—under Medicaid than is the case under Medicare.

In an effort to curb the Medicaid program's rapidly escalating costs, Title XIX was amended in 1967 (P.L. 90–248) by adding provisions which (1) restricted the conditions under which the federal government would participate in the cost of services to medically needy recipients; (2) added a list of mandatory and optional services; (3) permitted recipients the freedom to choose among qualified providers of covered services; (4) required standards of care in skilled nursing facilities; (5) mandated reviews of the utilization of medical services under Title XIX; and (6) required participating states to offer early and periodic screening, diagnosis and treatment services to all Medicaid-eligible children.

In 1971, amendments to Title XIX (P.L. 92–223) authorized Medicaid reimbursement for intermediate care facility (ICF) services. [N.B., Prior to 1971, ICF services were reimbursed under Title XI of the Act.] ICF services were statutorily defined as services designed to meet the needs of individuals "...who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities..."

P.L. 92–223 also amended the Act to authorize public mental retardation institutions to be certified as intermediate care facilities under the following conditions: (1) the primary purpose of the institution, or distinct part thereof, was the provision of health and rehabilitative services to persons with mental retardation; (2) institutional residents participating in the program were receiving "active treatment"; (3) the facility was in compliance with standards prescribed by the Secretary of HHS; and (4) the state was maintaining its prior level of state-local fiscal support for facilities certified as ICF/MRs. [N.B., Regulatory standards subsequently issued by HHS permitted states to certify both publicly and privately operated ICF/MR facilities, including qualified "small" (fifteen bed or less) residences.] P.L. 92–223 also required the states to conduct independent professional reviews of the quality and appropriateness of services provided to residents of ICF facilities.

In 1972, Medicaid reimbursement was extended to inpatient care for otherwise eligible children with mental illness, under 21 years of age, in public and private psychiatric facilities. In order to qualify, the facility had to be (a) providing active treatment programs for all eligible children; and (b) be accredited by the Joint Commission on the Accreditation of Hospitals. In addition, participating states were obligated to maintain at least their prior level of expenditures on behalf of such children.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97–35) authorized the Secretary of HHS to waive federal requirements to enable requesting states to furnish personal care and other services (excluding the costs of room and board) to individuals who, without such services, would require institutional care in a Title XIX-certified facility. This so-called home and community-based waiver program, as authorized under Section 1915(c) of the Social Security Act, could be used by states to serve individuals who previously resided in ICF/MRs, hospitals or nursing homes, as well as those who were at-risk of institutionalization. The average per diem cost of services provided under the waiver could not exceed the cost of providing institutional care to the same target population of waiver recipients.

P.L. 97-35 also permitted states, as part of a HCB waiver program, to obtain waivers of the requirements that all Medicaid services be equally available throughout a state and for all similarly situated groups of Medicaid recipients. These waivers were designed to enable a state to demonstrate the feasibility and cost-effectiveness of providing a particular service(s) in one area of a state (the so-called waiver of "statewideness") or to a targeted group of recipients (the so-called waiver of "comparability").

P.L. 97-35 also authorized temporary Medicaid payment reductions, decreasing federal matching payments to the states by three, four and 4.5 percent in fiscal years 1982, 1983 and 1984, respectively, as part of a general plan to curb federal social spending. These payment limitations were not continued under the Deficit Reduction Act of 1984 (P.L. 98-369). The 1984 legislation also expanded Medicaid coverage for pregnant women and young children to certain groups of low income individuals who did not meet AFDC income and resource requirements.

The Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) permitted states to cover, under their Medicaid plans, home care services for certain children with disabilities, even though the family's income and resources exceeded the state's normal financial eligibility standards. Under the terms of the legislation, such children would have to otherwise require institutionalization and be eligible to receive SSI benefits.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) authorized states to cover, as a Medicaid state plan service, case management services on less than a statewide or comparable basis to selected targeted groups of Title XIX recipients. To do so, however, a state still would have to offer recipients the freedom to choose among available providers of case management services.

P.L. 99-272 also contained numerous modifications in the home and community-based waiver program, including:

- an expanded definition of "habilitation services" for waiver recipients with developmental disabilities, to include certain pre-vocational, education and supported employment services on behalf of waiver recipients who were discharged from a hospital, SNF, ICF or ICF/MR;

- authority to cover ventilator-dependent clients under a waiver program if they otherwise would require continued inpatient hospital care;
- a restriction on Secretarial authority to disapprove waivers on the grounds that they must cost significantly less than 100 percent of comparable cost of institutional services;
- a prohibition against disallowing federal financial participation in any waiver costs in excess of a state's original waiver expenditure estimates;
- authority for states to compare institutional cost for individuals with physical disabilities who are potentially eligible for waiver services to similarly situated ICF residents, rather than to all ICF residents statewide;
- authority for state Medicaid agencies to enter into cooperative arrangements with state maternal and child health agencies when waiver services are provided to children;
- permission for states to establish higher maintenance income standards for individuals receiving waiver services in the community;
- authority for the Secretary to automatically renew HCB waivers expiring between September 30, 1985 and September 30, 1986 for one year upon request from a state; and
- extension of the waiver renewal period from three to five years.

P.L. 99–272 also contained provisions that clarified HHS's authority to oversee the operation of ICF/MRs. The legislation:

- required the Secretary to issue proposed revisions in 1974 federal standards governing the provision of services in ICF/MRs;
- directed the Secretary to adopt the 1985 edition of the Life Safety Code as it applies to ICF/MRs (thus providing more flexible fire safety standards in small ICF/MRs); and
- permitted states to reduce the population of non-complying ICF/MRs as part of a HCFA-approved correction plan. [N.B., This provision was designed to expire after three years.]

The Omnibus Budget Reconciliation Act of 1986 (P.L. 99–509) contained a number of Medicaid amendments relevant to persons with disabilities. Included were the following amendments:

- states were given the option of extending Medicaid coverage to poor pregnant women and young children with incomes between the AFDC payment level and the federal poverty line;

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- a new optional category of medically needy persons was established, consisting of individuals who are elderly or disabled with incomes up to the federal poverty level;
- a new mandatory category of Medicaid coverage was created for non-elderly persons with severe disabilities who are capable of substantial gainful activity but have insufficient income to maintain a reasonable standard of living and also pay for health care coverage (see the discussion on Section 1619(a) and (b) of the Act under the "Income Maintenance" section of this report);
- states were authorized to offer respiratory care services to certain individuals under their Medicaid programs;
- inpatient hospital care was added as a category which a state could use for cost comparisons under a home and community-based waiver program;
- the optional targeted case management program authorized under P.L. 99–272 was extended to include individuals with AIDS and individuals with chronic mental illness; and
- people with chronic mental illness were made eligible for home and community-based waiver services.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203) included a number of technical amendments to Medicaid law. These provisions:

- restored the Secretary's authority to allow a state to disregard normal income deeming rules in determining the eligibility of persons to participate in the HCB waiver program;
- increased from 50 to 200 the number of persons who could participate in a "model waiver" program. [N.B., The "model waiver" program, although never statutorily authorized, was established by HCFA in 1982 to enable states to serve up to 50 children and/or adults with disabilities who otherwise would be ineligible for Medicaid because of SSI deeming rules.];
- granted states the option of disregarding parental income and resources in determining the Medicaid eligibility of individuals age 18 or younger who are OASDI recipients, at-risk of institutionalization, but living with their families;
- permitted states to limit the number and types of case management providers serving persons who are mentally ill or developmentally disabled under a targeted case management state plan amendment;

- permitted states to offer prevocational, educational and supported employment services to individuals who were deinstitutionalized at any time prior to participating in the waiver program; and
- granted states the authority to use the average per capita costs of ICF/MR services in calculating the cost-effectiveness of home and community based services for any resident of a skilled nursing or intermediate care facility with mental retardation or a related condition who is found to need the level of services provided in an ICF/MR.

P.L. 100–203 also established a pre-admission screening program to prevent inappropriate admissions of persons with developmental disabilities or chronic mental illness to Medicare and Medicaid-certified nursing facilities, and required states to transfer inappropriately placed nursing home residents with developmental disabilities or chronic mental illness to alternative residential settings.

The "Medicare Catastrophic Coverage Act of 1988" (P.L. 100–360) included a number of modifications in the 1987 nursing home reform amendments, including several key changes in the law's preadmission screening and annual resident review (PASARR) requirements. P.L. 100–360 also contained language clarifying the circumstances under which Medicaid reimbursement would be available for covered services that were included in the "individualized education program" (IEP) or "individualized family services plan" (IFSP) of an infant, toddler or child with a disability. In effect, this provision of the 1988 legislation was designed to reverse a federal administrative interpretation that services covered in a child's IEP or IFSP were not eligible for Medicaid reimbursement.

The Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239) contained language prohibiting the Secretary of Health and Human Services from withholding Medicaid payments to states for day habilitation services to persons with developmental disabilities, pending the issuance of final, clarifying HHS regulations. This legislation was intended to protect a number of states which had been threatened with the precipitous loss of federal Medicaid payments for day habilitation programs. P.L. 101–239 also included (a) several additional amendments to the 1987 nursing home reform legislation, including further changes in the Act's PASARR provisions and (b) a major expansion in required services under the Early, Periodic Screening, Diagnosis and Treatment program.

The Omnibus Budget Reconciliation Act of 1990 (OBRA-90; P.L. 101–508) established a limited purpose, optional state plan coverage of "community supported living arrangements" services for persons with mental retardation and related conditions (see discussion under

B-6 above). OBRA-90 also included further amendments to the nursing home reform provisions of P.L. 100–203, minor changes in the Medicaid home and community-based waiver authority and other technical amendments to Medicaid law.

In the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991" (P.L. 102–234), Congress established new statutory guidelines governing the sources of funds states may use to match federal Medicaid payments. In essence, the new legislation (a) legitimizes the use of intergovernmental transfers as a source of matching funds; (b) phases out the use of voluntary contributions over a one year period; (c) establishes a new test of when taxes levied against Medicaid providers can be used to match federal payments; (d) imposes a cap on the percentage (25%) of matching funds that may be derived from provider-specific taxes; (e) imposes a cap on the percentage of a state's payments (12%) that can be made to disproportionate share hospitals; and (f) creates a complicated set of rules to implement the new policies and foster interstate equity in federal reimbursement rates.

Numerous other major and minor amendments to Title XIX have been approved by Congress since 1965; however, the above-mentioned changes constitute the ones most directly relevant to services and benefits for persons with disabilities.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

A. Overview

The Alcohol, Drug Abuse and Mental Health Services (ADAMH) Block Grant program provides financial assistance to states and territories to support projects for the development of more effective prevention, treatment and rehabilitation programs to deal with mental illness, alcoholism and drug abuse. More specifically, ADAMH block grant funds may be used to support community mental health centers and the provision of services to individuals with chronic mental illness, children and adolescents with severe mental disorders, elderly individuals with mental illness and other identifiable populations which are underserved. The coordination of mental health and health care services provided within health care settings also are a goal of the legislation. States may use their discretion in spending their funds under the block grant program, within federally established parameters.

B. Major Programs Affecting Persons With Disabilities

Each state receives ADAMH formula grant funds based on its relative population and per capita income to provide alcohol, drug abuse and mental health services to eligible individuals in the state. Funds may be used at the discretion of the state, except that 90 percent of a state's total allotment must be used for mental health and substance abuse services. Of the amount allotted for substance abuse, not less than 35 percent must be used to treat alcohol abuse, not less than 35 percent for drug abuse activities and not less than 20 percent for prevention and early intervention activities. Of the amount reserved for drug abuse activities, at least 50 percent must be expended on intravenous drug users. In addition, not less than 10 percent of the funds allocated for: (a) drug and alcohol treatment programs must be used for services to women; and (b) mental health services must be used to treat children with serious emotional disturbances. Furthermore, not more than five percent of the allotment can be used to administer block grant funds. FY 1991 estimated appropriations: $1.205 billion.

References: Public Health Service Act, Title XIX, Part B, Subpart 1, as amended. 42 U.S.C. 300x. C.F.D.A.: 93.992.

C. Legislative History

The Community Mental Health Centers Act originally was authorized under Title II of the Mental Retardation Facilities and Community Mental Health Centers Act of 1963 (P.L. 88–164). This 1963 legislation authorized grants to assist states in the construction of public or nonprofit community mental health centers. These facilities were to house services and programs aimed at the prevention and diagnosis of mental illness, care and treatment of persons with mental illness, and rehabilitation of persons recovering from mental illness. Allotments of funds to the state were based on a formula that took into account the state's relative population, need for mental health services and financial need.

In 1965, the Act was amended (P.L. 89–105) to authorize a program of grants to cover the costs of staffing community mental health centers with technical and professional personnel during the first 51 months of operations. The 1967 amendments (P.L. 90–31) extended the authority for construction and initial staffing grants through fiscal year 1970 and permitted funds to be used for the acquisition and/or renovation of existing buildings to serve as centers.

The Community Mental Health Centers Amendments of 1970 (P.L. 91–211) extended the construction and staffing grants program for an additional three years. P.L. 91–211 also contained a new project grant program to allow centers to provide mental health services to children. The federal share of funding for construction was raised to 67 percent in non-poverty areas and 90 percent in poverty areas. The maximum duration of staffing grants was extended to eight years with a declining level of federal aid, ranging from 80 percent funding during the first two years to 30 percent in the sixth through the eighth years.

Title III of the Special Health Revenue Sharing Act of 1975 (P.L. 94–63) significantly revised and expanded the Community Mental Health Centers Act. Applicants for grants under the Act were required to plan for and provide a comprehensive range of mental health services. P.L. 94–63 restructured the financing of centers by expanding the construction and staffing grant program into the following six types of grants: (a) grants to help public and nonprofit agencies plan for the development of community mental health centers; (b) initial operation grants to assist public or nonprofit centers in meeting the start-up costs associated with running a center (for a maximum period of eight years, with a declining federal share over the period); (c) consultation and education grants to centers; (d) conversion grants to provide federal assistance to existing centers for expanding their services to meet the comprehensive services mandate; (e) financial distress grants for centers in danger of having to reduce the types or quality of services provided due to the termination of staffing and operating grants; and (f) facilities grants to states for purchasing, renovating, leasing and equipping community mental health centers, and for the construction of additional centers serving poverty areas.

In 1978, amendments to the Mental Health Centers Act (P.L. 95–622) eased the requirements governing the provision of comprehensive services, by allowing centers to develop their programs in two stages. To open, centers were required to provide (a) inpatient, outpatient and emergency services; (b) assistance in determining the need to institutionalize an individual; (c) follow-up care for deinstitutionalized mental patients; and (d) consultation and education services. After three years of operation, centers had to be prepared to provide a complete, comprehensive array of community mental health services.

The 1980 amendments to the Act (P.L. 96–398) expanded the requirements for state mental health service plans, provided state mental health agencies with an option to exercise greater control over the awarding of federal grants to state and local entities, and authorized a series of new federal funding programs emphasizing community-based services to groups needing specialized mental health services. The new grants were categorized as follows: (a) grants for comprehensive community mental health centers; (b) services for individuals with chronic mental illness; (c) services for children and adolescents with serious emotional problems; (d) mental health services for elderly persons and other priority populations; (e) non-revenue producing services, including consultation and education, follow-up services, certain administrative and staffing costs, and other non-revenue producing activities described by the Department of Health and Human Services; (f) mental health services in health care centers; (g) innovative projects; and (h) prevention of mental illness and promotion of mental health.

In 1981, the Omnibus Budget Reconciliation Act (P.L. 97–35) collapsed three separate grant-in-aid programs (drug abuse, alcohol abuse and mental health services) into a single block grant program. Programs authorized under the Community Mental Health Centers Act, the Mental Health Systems Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act and the Drug Abuse Prevention and Treatment Act were combined and authorized under Title XIX, Part B, Subpart 1 of the Public Health Service Act.

Through the combined grant program, states were authorized to provide the following services:

- services to individuals with chronic mental illness, including identification and assistance in obtaining essential services through the assignment of case managers;
- identification and assessment of children, adolescents and elderly individuals with mental illness and the provision of services to such persons;
- services to identifiable, underserved populations, and
- coordination of mental health and health care services provided within health care centers.

The block grant program was amended and extended by the Alcohol Abuse, Drug Abuse and Mental Health Amendments of 1984 (P.L. 98–509). These amendments created a hold harmless provision in the allotment formula to protect smaller states. The 1984 law also established two set-asides in the block grant program: (a) a ten percent set aside in the mental health portion of a state's allotment for underserved populations, with particular emphasis on children and adolescents; and (b) a five percent set aside for women under the state substance abuse portion of the program.

The Comprehensive State Mental Health Planning Act of 1986 (P.L. 99–660) set out specific parameter for the development of comprehensive state plans to serve persons with chronic mental illness. If states fail to abide by these statutory parameters, federal funds allotted for administrative services under the ADAMH block grant programs could be withheld.

NATIONAL RESEARCH INSTITUTES

A. Overview

Title IV of the Public Health Service Act authorizes a broad array of biomedical research activities, many of which directly or indirectly relate to the diagnosis, treatment and prevention of various types of disabling conditions. Generally, the national research institutes, established under Title IV:

- conduct intramural research in federal government laboratories;
- support extramural research conducted in universities, hospitals and research institutions across the United States and abroad;
- assist nonprofit institutions to build and equip biomedical research facilities;
- support training of career research scientists; and
- facilitate the communication of biomedical information to scientists, health practitioners and the general public.

Currently there are thirteen institutes that are part of the National Institutes of Health. Several of these institutes carry out and/or support research, training and dissemination activities that impact on persons with disabling conditions.

B. Major Programs Affecting Persons With Disabilities

1. ***Diabetes, Digestive and Kidney Disease.*** The National Institute of Diabetes and Digestive and Kidney Diseases is established under Part A of Title IV of the Act. The general purpose of this institute is to conduct and support research, training, health information dissemination and other programs with respect to diabetes mellitus, endocrine and metabolic diseases, digestive diseases and nutritional disorders and kidney, urologic and hematologic diseases. FY 1991 appropriations: $615.3 million.

References: Part A, Title IV, Public Health Service Act, as amended, P.L. 89–692, P.L. 92–305, P.L. 93–354, P.L. 93–640, P.L. 94–562, P.L. 95–83 and P.L. 99–158. 42 U.S.C. 285; 281 and 285c. C.F.D.A.: 93.847, 93.848, 93.849.

2. ***Arthritis, Musculoskeletal and Skin Diseases.*** The National Institute of Arthritis and Musculoskeletal and Skin Diseases is authorized under Part A of Title IV of the Act. The general purpose of this Institute is to conduct and support research and training, disseminate information and conduct other programs with respect to arthritis, musculoskeletal diseases and skin diseases, including sports-related disorders. FY 1991 appropriations: $193.2 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 89-692, P.L. 92–305, P.L. 93–354, P.L. 93–640, P.L. 94–562, P.L. 95–83 and P.L. 99–158. 42 U.S.C. 281 and 285d-1. C.F.D.A.: 93.846.

3. *Child Health and Human Development.* The National Institute of Child Health and Human Development is authorized under Part A of Title IV of the Act. The general purpose of this Institute is to conduct and support research, training, health information dissemination and other programs with respect to maternal health, child health, mental retardation, human growth and development, including prenatal development, population research and special health problems and requirements of mother and children. Specific research into sudden infant death syndrome and the causes, prevention and treatment of mental retardation is mandated in the statute. In addition, the law requires the Institute to have an Associate Director for the Prevention of Health Problems of Mothers and Children. FY 1991 appropriations: $479.0 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 87–838, P.L. 91–572, P.L. 93–270, P.L. 94–278, P.L. 95–83 and P.L. 99–158. 42 U.S.C. 281; 285g; 285j(3) and 300c-12. C.F.D.A.: 93.864 and 93.865.

4. *Neurological Disorders and Stroke.* The National Institute of Neurological Disorders and Stroke is authorized under Part A of Title IV of the Act. The Institute conducts and funds research, training, health information dissemination and other programs with respect to neurological diseases and disorders, stroke and disorders of human communication. Among the disability areas covered by this Institute are spinal cord injury, head trauma, Tourette's Syndrome, convulsive and developmental disorders, and speech, hearing and language disorders. Spinal cord regeneration and the use of electrical stimulation and computers to overcome paralysis are two areas of research mandated under this Institute's statutory charter. FY 1991 appropriations: $541.7 million.

References: Part A, Title IV, Public Health Services Act, as amended. P.L. 89-692, P.L. 92–305, P.L. 93–354, P.L. 93–640, P.L. 94–562, P.L. 95–83 and P.L. 99–158. 42 U.S.C. 281; 285j-285j(2). C.F.D.A.: 93.853 and 93.854.

5. *National Eye Institute.* The National Eye Institute, authorized under Part A of Title IV of the Act, conducts and supports research training and information dissemination into blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight and the special health problems and requirements of persons who are blind. FY 1991 appropriations: $253.2 million.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 90–489, P.L. 94–278, P.L. 95–83 and P.L. 99–158. 42 U.S.C. 285i. C.F.D.A.: 93.867, 93.868, 93.869 and 93.871.

6. ***Deafness and Other Communication Disorders.*** Established under Part A of Title IV of the Act, the National Institute on Deafness and Other Communications Disorders is responsible for conducting and supporting research, training and dissemination programs dealing with disorders of hearing and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste and smell.

References: Part A, Title IV, Public Health Service Act, as amended. P.L. 99–158. 42 U.S.C. 281; 285m. C.F.D.A.: 93.173.

C. Legislative History

The Public Health Service (PHS) Act of 1944 (P.L. 78–410) provided an initial structure for research into a number of diseases and health problems confronting the nation. Title IV of the Act established several national research institutes. In 1948, the National Heart Act (P.L. 80–655) amended the Public Health Service Act to support specific research and training into diseases of the heart and circulatory system.

In 1950, the PHS Act amendments (P.L. 81–962) authorized research and training into questions relating to arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy and other diseases. The National Institute of Child Health and Human Development and the National Institute for General Medical Sciences were established under 1962 amendments to the Act (P.L. 87–383).

More recent amendments to the Public Health Service Act related to research activities have included: (1) the National Diabetes Mellitus Research and Education Act of 1974 (P.L. 93–354); (2) the National Arthritis Act of 1974 (P.L. 93–640); (3) the National Research and Health Services Amendments of 1976 (P.L. 94–278); (4) the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976 (P.L. 94–562); and (5) the Health Services Programs Extension Act of 1977 (P.L. 95–83).

The Health Research Extension Act of 1985 (P.L. 99–158) recodified and updated Title IV of the Act. P.L. 99–158 modified the basic statutory authority for the National Institute of Child Health and Human Development to mandate research into mental retardation and to establish the position of Associate Director for Prevention. P.L. 99–158 also amended the Act to define the circumstances under which research could be conducted on human fetuses and established an independent Congressional Biomedical Ethics Board to study and report to Congress on ethical issues related to health care and biomedical research. Finally, the Act established two interagency committees, one on spinal cord injury and the other on learning disabilities.

OTHER HEALTH PROGRAMS AND SERVICES

A. Overview

The Public Health Service Act is a major, long-standing source of federal support for basic health care services. Citizens with disabilities benefit from both the Act's support of general preventive health services, and the specialized programs targeted toward ameliorating diseases and conditions which may lead to illness or disability.

B. Major Programs Affecting Persons With Disabilities

1. *Prevention.* Prevention activities authorized under the Public Health Service Act which relate most directly to disabling conditions include (a) control of communicable diseases that lead to disability; (b) investigations related to the control of disease; (c) screening and counseling for genetic diseases that may result in disability at birth; and (d) a national vaccine program.

a. *Childhood Immunization Grants.* Section 317(a) of the Act authorizes project grants to assist state health authorities in controlling, through immunization and other activities, diseases or conditions amenable to reduction. Target diseases or conditions include: rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, hepatitis B, mumps, and other communicable diseases, as well as arthritis, diabetes, hypertension, pulmonary diseases, cardiovascular diseases and RH disease. FY 1991 appropriations: $182.0 million.

References: Title III, Public Health Service Act, as amended. P.L. 92–449, P.L. 94–317 and P.L. 95–626. 42 U.S.C. 247b. C.F.D.A.: 93.268.

b. *Investigations and Technical Assistance.* Title III of the Act authorizes grants to state and local health authorities to assist in controlling communicable diseases, chronic diseases and other preventable health conditions. Investigations and evaluation of all methods of controlling or preventing disease are carried out by providing epidemic, surveillance, technical assistance, consultation, leadership and coordination of preventive efforts. The program focuses on tuberculosis, childhood immunization and sexually transmitted diseases. FY 1991 appropriations: $407.7 million.

References: Title III, Public Health Service Act, as amended by P.L. 99-158 and P.L. 97-35. 42 U.S.C. 241; 242l; 242m; 243; 247b; 249; 263; 264; 265-272. C.F.D.A.: 93.283.

c. *Genetic Diseases Research, Testing and Counseling Services.* Sections 301, 461 and 487 of the PHS Act authorize grants and contracts to support basic research into understanding, diagnosing, treating and controlling genetic diseases. Funds are awarded to universities, hospitals, laboratories, other institutions, state and local government agencies, or certain individual researchers. Activities may include education, training and public awareness concerning genetic diseases, as well as the development of model testing and counseling programs. FY 1991 appropriations: $212.5 million.

References: Sections 301, 461 and 487, Public Health Service Act, as amended. P.L. 92–414, P.L. 92–294, P.L. 94–278, P.L. 97–35 and P.L. 99–158. U.S. Code: 42 U.S.C. 300b-1. C.F.D.A.: 93.862.

d. *Disabilities Prevention.* Project grants are authorized under the Public Health Services Act to support (a) the establishment of state-based offices to stimulate disability prevention activities; (b) the establishment of a statewide advisory body to coordinate and provide guidance for disability prevention programs in a state; (c) the development of a state strategic plan for preventing disabilities; (d) the development of surveillance activities for target disability groups in order to assist in prevention efforts and program evaluation; (e) the promotion of disability prevention planning at the local level; (f) the development of community projects designed to prevent disabilities; (g) the implementation of state-based surveillance activities; and (h) the evaluation of specific community disability prevention projects aimed at target disability groups. During FY 1992, the Centers for Disease Control, which administers this project grant program, expects to fund disability prevention offices in approximately 30 states. FY 1991 appropriations: $5.6 million.

References: Public Health Services Act, as amended. 42 U.S.C. 301. C.F.D.A.: 93.184.

e. *AIDS Education and Prevention.* The Centers for Disease Control awards project grants to public and private organizations to assist in developing and implementing surveillance, epi[illegible]miological research, health education, school health and risk reduction activities related to the human immunodeficiency virus (HIV) in the states and, particularly, in major cities. FY 1991 appropriations (est.): $494.7 million.

References: Public Health Services Act, Sections 301(a) and 318, as amended by P.L. 95–626. 42 U.S.C. 241 and 247c. C.F.D.A.: 93.118.

f. *Comprehensive AIDS Prevention Program.* The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (P.L. 101–381) amended the Public Health Services Act to establish a series of project grant programs to assist people with HIV infection. Among these new programs are (a) the HIV Emergency Relief Project Grant Program, which awards grants to localities that are disproportionately affected by the HIV epidemic; (b) the HIV Emergency Relief Formula Grants, which also channels emergency aid to localities that are disproportionately affected by the HIV epidemic; (c) the HIV Care Formula Grant Program, which is intended to help states to improve the quality, accessibility and organization of health care and support services for individuals with HIV disease and their families; and (d) project grants to provide outpatient and early intervention services for HIV disease. FY 1991 appropriations: $87.0 million (HIV Emergency Relief Project Grant Program); $87.0 million (HIV Emergency Relief Formula Grant Program) $87.0 million (HIV Care Formula Grant Program) and $144.9 million (Outpatient and Early Intervention Grant Program).

References: Public Health Services Act, as amended by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, P.L. 101–381. 42 U.S.C. 300ff et. seq. C.F.D.A.: 93.914 (HIV Emergency Relief Project Grant Program); 93.915 (HIV Emergency Relief Formula Grant Program); 93.917 (HIV Care Formula Grant Program); and 93.918 (Grants to Provide Outpatient Early Intervention Services with Respect to HIV Disease).

2. ***Mental Health Programs.*** Title III of the Public Health Service Act authorizes mental health research and training programs. Under Section 303 of the Act the following types of research/training activities may be supported: (1) mental health research grants; (2) mental health research scientist awards; (3) mental health clinical or service-related training grants; and (4) mental health national research service awards. FY 1991 appropriations: $257.6 million (mental health research grants); $13.7 million (mental health clinical/service training grants); $19.8 million (mental health research scientist grants); and $26.9 million (mental health national research service grants).

References: Title III, Section 301, Public Health Service Act, as amended, P.L. 88–164, P.L. 89–109, P.L. 91–211, P.L. 91–515, P.L. 94–63, P.L. 95–622 and P.L. 99–158. 42 U.S.C. 242a. C.F.D.A.: 93.242 (mental health research grants); 13.244 (mental health clinical/service training grants); 13.281 (mental health research scientist grants) and 13.282 (mental health national research service grants).

3. ***Ethical Considerations.*** Title XVIII of the Act establishes the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. Among the statutory aims of the Commission is to study issues concerning persons with disabilities, including (a) voluntary testing, counseling, information and education programs regarding genetic diseases and conditions; (b) the protection of human subjects in research; (c) the requirements for informed consent; and (d) the protection of privacy. Other issues to be studied by the Commission include (a) defining "death"; (b) voluntary genetic testing and counseling; (c) differences in the availability of health services with regard to a person's income or location; and (d) confidentiality of records.

References: Title XVIII, Public Health Service Act, P.L. 93–348, P.L. 95–622 and P.L. 99–158. U.S. Code: 42 U.S.C. 300v-300v-1. C.F.D.A.: N/A.

C. Legislative History

1. ***Prevention.*** Title III of the Public Health Service Act of 1944 (P.L. 78–410) established the general powers and duties of the federal Public Health Service, including a number of prevention activities. The following amendments to the Act further enhanced the prevention functions of PHS:

a. in 1962, the Vaccination Assistance Act (P.L. 87–868) authorized aid to state and community health agencies to carry out intensive vaccination programs against polio, diphtheria, whooping cough and tetanus, particularly for preschool aged children. The Act was later extended by the Communicable Disease Control Amendments of 1970 (P.L. 91–464), 1972 (P.L. 92–449), 1976 (P.L. 94–317) and 1985 (P.L. 99–158);

b. in 1970, the Lead-based Paint Poisoning Prevention Act (P.L. 91–695) was enacted to provide federal assistance to protect children from the debilitating effects of lead in their environment. The Act was later amended and extended in 1974 (P.L. 93–151), 1976 (P.L. 94–317) and 1978 (P.L. 95–626). The program was consolidated into the Maternal and Child Health Block Grant by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35);

c. research into the genetic or hereditary causes of Cooley's anemia and sickle cell anemia, and testing, counseling and treatment of these diseases were authorized in 1972 under the National Cooley's Anemia Control Act (P.L. 92–414) and the National Sickle Cell Anemia Control Act (P.L. 92–294);

d. the Health Research and Health Services Amendments of 1976 (P.L. 94–278) replaced the sickle cell anemia and Cooley's anemia programs with an expanded authority applicable to all genetic diseases, with priority retained for anemia projects. Amendments to the Act in 1978 (P.L. 95–626) expanded the description of genetic conditions covered under the law to include mental retardation and other genetically-caused mental disorders; and

e. P.L. 94–278 and P.L. 95–626 also authorized the establishment of hemophilia research and treatment centers. Federal support for the hemophilia centers were consolidated into the Maternal and Child Health Block Grant under the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35).

2. ***Mental Health Programs.*** Mental health research, training and statewide planning and services were originally authorized under Title III of the Public Health Service Act, as amended in 1946. The National Mental Health Act of 1946 (P.L. 79–487) provided for research relating to psychiatric disorders and aid in the development of more effective methods of prevention, diagnosis and treatment of such disorders. The 1956 amendments to the Act (P.L. 84-911) authorized federal support for training of mental health personnel.

Aid for state level mental health planning and services were added to Section 314(d) of the PHS Act under the Comprehensive Health Planning and Public Health Services Amendments to 1966 (P.L. 89-749). The legislation stipulated that fifteen percent of the funds appropriated for comprehensive health services under Section 314(d) were to be set aside for state mental health programs.

In 1974, amendments to Title III of the Act (P.L. 94-63) required state mental health authorities to submit deinstitutionalization plans and to perform other functions including standard-setting, screening clients before commitment to a mental institution, and follow-up services for discharged patients. The Community Mental Health Centers Amendments of 1978 (P.L. 95-622) pulled state mental health planning and services out of Section 314(d) and established it as a separate authority under Section 314(g). The planning functions of state mental health authorities also were expanded by provisions coordinating the mental health plan with the state health plan developed under Title XV of the PHS Act.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) placed authority for mental health planning and services into the Alcohol, Drug Abuse and Mental Health Block Grant, authorized under Title XIX of the Public Health Service Act. The State Comprehensive Mental Health Services Plan Act of 1986 (P.L. 99-660) expanded the requirements for state mental health plans.

3. *Ethical Issues.* Reflecting the growing national concern over the adequacy of procedures for reviewing and monitoring research projects involving human subjects, Congress, in 1974, established the President's Commission on Protection of Human Subjects of Biomedical and Behavioral Research. Authority for the Commission was contained in the National Research Act of that year (P.L. 93-348). The Commission was reauthorized and its mandate broadened under the Public Health Service Act Amendments of 1978 (P.L. 95-622). At that time the Commission was renamed the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research and its authority placed in a new Title XVIII of the PHS Act.

The Health Research Extension Act of 1985 (P.L. 99-158) established an independent Congressional Biomedical Ethics Board, patterned after the Office of Technology Assessment. The Board studies and reports to Congress on ethical issues arising from the delivery of health care and biomedical research, including the protection of human research subjects and new developments in genetic engineering.

In addition, P.L. 99–158 included provisions defining the circumstances under which research may be conducted on living human fetuses. The Secretary may support only research projects that (a) may enhance the well-being or meet the health needs of the fetus; (b) enhance the probability of the fetus' survival to viability; or (c) develop important biomedical knowledge that cannot be obtained through other means and that will pose no added risk of suffering, injury or death to the fetus.

4. *Vaccine Injury Compensation Program.* The National Childhood Vaccine Injury Act (P.L. 99–660) created a system to compensate children for injuries received from routine pediatric immunizations and reduce the liability of manufacturers in order to hold down vaccine price increases. The Act established the basic structure of the program under Title XXI of the Public Health Service Act, but funding was not provided to implement the program until 1987. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203) created a Vaccine Injury Compensation Trust Fund, financed by excise taxes on specified childhood vaccines. Effective October 1, 1988, this law created an improved mechanism for vaccine research, testing, development, licensing and recordkeeping, as well as modified procedures for determining liability in vaccine-related injuries.

MILITARY MEDICAL BENEFITS ACT (CHAMPUS)

The Military Medical Benefits Act Amendments of 1966 (P.L. 89–614) expanded health care benefits for dependents of active duty members of the uniformed services (the Army, Navy, Marine Corps, Air Force, Coast Guard and the commissioned corps of the Public Health Service). Among the expanded benefits of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) was coverage for certain services to military dependents with disabling conditions.

Under the CHAMPUS Program for the Handicapped, the spouse or child of an active duty member is eligible for services if he or she has a serious physical disability or is moderately to severely mentally retarded. The dependent's condition, however, must (1) be expected to result in death or have lasted or be expected to last for a minimum of 12 months; and (2) keep the individual from engaging in substantially productive activities of daily living expected of unimpaired individuals in the same age group.

The CHAMPUS Program for the Handicapped covers the following health and education-related costs: (1) diagnosis; (2) inpatient, outpatient, and home treatment; (3) training, rehabilitation and special education; (4) institutional care in public or private nonprofit facilities, and transportation to and from such facilities when necessary [N.B., Public facilities must be used to the extent that they are available and appropriate.]; (5) payment for nutrient solutions for patients requiring special feeding at home; and (6) the purchase and maintenance of durable equipment.

The law provides for a sliding scale monthly deductible payable by the active duty member, based upon his or her pay grade. Those in the lowest enlisted pay grade are required to pay the first $25 each month of expenses incurred by their dependent. Four star generals and admirals are similarly required to pay the first $250 each month. All other active duty members with participating dependents pay amounts in between these statutory limits, as determined by the Secretary of Defense. The federal government pays an amount above the deductible, not to exceed $1000 per month. However, CHAMPUS will not pay benefits when public resources are available to the dependent with disabilities in the same manner and to the same extent as any other citizen of the local community or state.

The Program for the Handicapped was established because of the recognition that payment for the special needs of military dependents with mental retardation or physical disabilities is frequently such a drain on the financial resources of the service member that it prevents him or her from maintaining an acceptable standard of living. In addition, military dependents with disabilities often may not qualify for public programs because they do not meet residency requirements.

In 1971, amendments to the Act (P.L. 92–58) extended benefits under the Program for the Handicapped to an unmarried child, under age 21, of a deceased service member who died while eligible for hostile fire pay or from a disease or injury incurred while eligible for such pay.

In 1980 amendments to the Act, the maximum CHAMPUS benefit was increased from $350 to $1000 per month. The Department of Defense Authorization Act (P.L. 96–342) also expanded CHAMPUS coverage to provide payments for nutrient solutions for patients requiring special feeding at home.

References: Military Medical Benefits Act, as amended, P.L. 89–614, P.L. 92–58 and P.L. 96–342. 10 U.S.C. 9071 et. seq. C.F.D.A.: N/A.

HOUSING

UNITED STATES HOUSING ACT OF 1937

A. Overview

The Housing Act of 1937, as amended, authorizes several programs that may be used to assist low income persons with disabilities and individuals who are elderly to obtain suitable living accommodations. Section 8 of the Act authorizes a program of direct housing assistance payments, or rent subsidies, on behalf of low-income families. The basic statutory aim of the so-called Lower Income Housing Assistance program is to help economically disadvantaged families obtain "a decent place to live" and to promote "economically mixed housing". Also authorized under Section 8 is the Rental Voucher Program. The major difference between the regular Section 8 rental assistance program and the rental voucher program is the length of the government's contractual obligation to support such housing (fifteen vs. five years) and the methods used to locate/arrange suitable housing for a participating family.

Congress added two new housing assistance programs under the provisions of the National Affordable Housing Act of 1990: the Home Ownership and Opportunity for People Everywhere (HOPE) program and the HOME Investment Partnerships program. The HOPE program has several dimensions, the best known of which authorizes grants to assist public housing tenants to buy the units they live in. By contrast, the HOME Investment Partnerships program provides grants to help state and local governments expand the supply of affordable housing through new construction, rehabilitation of existing housing and rent subsidies to low-income families.

B. Major Program Affecting Persons With Disabilities

1. ***Rent Subsidies.*** The Lower Income Housing Assistance program authorizes direct payments to participating private homeowners and public housing agencies in return for furnishing decent, safe and sanitary housing to certain low income families. Housing assistance payments are used to make up the difference between the maximum approved "fair market" rent for the dwelling unit and the occupant family's required contribution toward the rent. Assisted families are required, by law, to contribute 30 percent of their adjusted family

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income, 10 percent of their gross family income or the portion of welfare assistance designated for housing, whichever is higher, toward rent payments. As defined in the Act, the term "lower income family" includes single persons with handicaps. The term "handicapped" refers to persons who have an impairment which (1) is expected to be of long-continued and indefinite duration; (2) substantially impedes the person's ability to live independently; and (3) is of such a nature that the person's abilities could be expected to improve with the provision of more suitable housing.

The Section 8 rent subsidy program is aimed not only at increasing the rent-paying capacity of low-income families but also to stimulate the production and rehabilitation of low-income housing. Thus, the program is divided into three parts: the rental certificate program, new construction/substantial rehabilitation and moderate rehabilitation. In recent years, however, the program has been used primarily to support existing housing units. Section 8 assistance is available in the following types of housing: (1) existing housing; (2) privately developed new or substantially rehabilitated housing; (3) publicly developed new or substantially rehabilitated housing; and (4) new state agency-sponsored housing developments for which Section 8 set-asides are allocated. FY 1991 appropriations: $1.2 billion.

References: Housing Act of 1937, as amended. P.L. 93–383, Housing and Community Development Act of 1974, P.L. 93–383; Steward McKinney Homeless Assistance Amendments Act of 1988, P.L. 100–628; Department of Housing and Urban Development Reform Act of 1989, P.L. 101–235. 42 U.S.C. 1437f. C.F.D.A.: 14.156; 14.180; and 14.182.

2. *Housing Vouchers.* The Housing Voucher program provides Section 8 housing assistance payments to participating owners on behalf of eligible tenants to provide safe and sanitary housing for very low income individuals/families, including persons with handicaps at rents they can afford. The amount of the housing assistance payment is the difference between the local payment standard (i.e., a measure of prevailing rents for comparable housing in the particular area) and 30 percent of the family's adjusted income. One major difference between the standard Section 8 program and the voucher program is that under the voucher program, rents are negotiated between tenants and landlords and not held to the maximum fair market rates. Thus, if a tenant finds a unit that costs less than HUD's rent standards, the tenant may keep some of the subsidy; conversely, if the unit costs more than 30 percent of the family's income, the tenant must make up the difference. However, a participating family must pay a minimum of ten percent of its gross income. Another distinction is that assistance contracts under the voucher program are limited to 5 years, while Section 8 existing housing contracts cover a 15 year period. FY 1991 appropriations: $934.1 billion.

References: Section 8(o) of the Housing Act of 1937, as amended by the Housing and Urban-Rural Recovery Act of 1983, P.L. 98-181 and the Housing and Community Development Act of 1987, P.L. 100-142. 42 U.S.C. 1437f(o). C.F.D.A.: 14.177.

3. *Home Ownership and Opportunity for People Everywhere (HOPE) Program.* The HOPE program is divided into four component parts. Under the HOPE I program, grant funds are distributed to public housing tenants through tenant-managed groups. The purpose of these grants is to assist such tenants to purchase their current living units (i.e., house or apartment). The Hope II program assists eligible tenants to buy private apartment buildings, while Hope III helps low-income people to purchase single-family homes. The HOPE for Elderly Independence program provides service grants to enable frail elderly people to continue to live in the community.

The HOPE program also includes a component called Shelter Plus Care, which is designed to provide rental assistance in combination with supportive services to meet the needs of individuals who are homeless and disabled, especially people who are seriously mentally ill, have alcohol or drug abuse problems or have AIDS or related diseases (see additional discussion under National Affordable Housing Act, Section B-2 below).

FY 1992 is the first year in which appropriations were made available for the HOPE program. A total of $161.0 million was appropriated for the HOPE I program, $95.0 million for the HOPE II program, $95 million for the HOPE III program and $10 million for the HOPE for Elderly Independence Program.

Reference: National Affordable Housing Act of 1990; P.L. 101-625, 42 U.S.C. 1437, et. seq.; 42 U.S.C. 12871; 42 U.S.C. 12891 and 42 U.S.C. 8012. C.F.D.A.: N/A.

4. *HOME Investment Partnerships Program.* The HOME program authorizes the Secretary of Housing and Urban Development to make funds available to eligible state and local governments "...to increase the number of families served with decent, safe, sanitary, and affordable housing and [to] expand the long term supply of affordable housing...". These funds may be used by participating jurisdictions to provide incentives for the development of affordable rental housing and home ownership through the acquisition, new construction, reconstruction or moderate rehabilitation of housing units and the provision of tenant-based rental assistance. Preference must be given by participating jurisdictions to rehabilitating substandard housing.

Under specified circumstances, however, a participating state or local housing agency may use HOME grant funds to construct new "special needs" housing units when such housing is in short supply.

Among the "special needs" categories designated in the legislation is "affordable housing for persons with disabilities".

Initial appropriations for the HOME Investment Partnerships Program was $1.5 billion in FY 1992.

References: National Affordable Housing Act of 1990; P.L. 101–625. 42 U.S.C. 12741 et. seq. C.F.D.A.: N/A.

C. Legislative History

The first attempt to offer federal rent subsidies to low income families in privately owned and managed housing was authorized under Section 23 of the Housing Act of 1965 (P.L. 89–117), the so-called Leased Housing Program. This program allowed local housing authorities to lease apartment units available in the private housing market. Eligible low-income families were placed in these units and the federal government paid the difference between the monthly rent and 25 percent of the family's adjusted income.

The Housing and Community Development Amendments of 1974 (P.L. 93–383) expanded the Section 23 program into a new Lower Income Assistance program, established under Section 8 of the Housing Act of 1937. The 1974 amendments defined "low-income families", for purposes of Section 8, to include families consisting of single persons who are disabled as defined in Section 223 of the Social Security Act or Section 102 of the Developmental Disabilities Act. Families were also defined to include two or more elderly, disabled or handicapped individuals living together, or one or more persons living with another person determined to be essential to their care and well being.

The Housing Authorization Act of 1976 (P.L. 94–375) prohibited rent subsidy payments under Section 8 from being counted as income in determining whether a person who was elderly or handicapped would be eligible for Supplemental Security Income benefits. This provision was intended to prevent certain needy persons from suffering a reduction in their SSI benefits when they moved into a federally-assisted housing project.

The Housing and Community Development Amendments of 1978 (P.L. 95–557) authorized funds for "moderate rehabilitation" projects in Section 8–subsidized existing housing units. The new provisions scaled "fair market rents" in rehabilitated units to the amount of the owner's investment in the project.

The Housing and Community Development Act of 1980 (P.L. 96–399) established a loan limit for rehabilitating congregate housing units, to include renovation of individual units as well as common areas, such as kitchens, dining rooms and living rooms. P.L. 96–399 also permitted HUD to use up to $20 million in Section 8 subsidies to assist elderly applicants or applicants with disabilities who reside in multi-family rental housing supported through Section 236 of the U.S. Housing Act of 1937, when such individuals are spending more than 50 percent of their income on rental payments. The 1980 Act also required the Secretary of HUD to develop and submit to Congress a report examining existing data sources to determine (1) the housing needs and conditions of persons with handicaps; (2) the gaps in available housing sources; (3) alternative ways to fill these information gaps; and (4) methods of assessing the local housing needs of persons with handicaps.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35) made significant funding cuts in the Section 8 program. P.L. 97–35 also increased the portion of rent paid by tenants in subsidized housing from 25 to 30 percent of their net incomes.

In addition, P.L. 97–35 included language which (1) restricted the discretion of the Secretary of HUD to allow persons making more than 80 percent of the median income to reside in subsidized housing; (2) required that, on a national basis, no more than 10 percent of the occupants of federally-assisted housing may have incomes between 50 and 80 percent of the median; and (3) limited to 5 percent, in newly subsidized units, the number of occupants with incomes between 50 and 80 percent of the median. The law also limited future rent increases in subsidized housing to ten percent.

The Housing and Urban-Rural Recovery Act of 1983 (P.L. 98–181) continued the existing Section 8 certificate program, but also established a demonstration voucher program. Use of the original 15,000 vouchers authorized under this legislation was limited primarily to HUD's new rental rehabilitation program; however, 5,000 units were allocated to a "free-standing" program to provide an opportunity to compare the existing certificate program with the voucher program. Continuing resolutions for HUD programs in subsequent years increased the appropriations for the voucher program. The program was made a permanent feature of Section 8 under the provisions of the Housing and Community Development Act of 1987 (P.L. 100–142).

The National Affordable Housing Act was passed by Congress and signed into law by President Bush on November 28, 1990 (P.L. 101–625). It represented the first major, across-the-board revision in federal housing statutes since 1974. The most important new programs authorized under this legislation included the Home Ownership and Opportunity for People Everywhere (HOPE) program and the HOME Investment Partnerships Program.

HOUSING ACT OF 1949

A. Overview

Title V of the Housing Act of 1949, as amended, authorized direct and insured loans for the development and rehabilitation of rural housing. Persons with handicaps were made eligible to participate in such rural housing programs under the Housing and Community Development Amendments of 1977 (P.L. 95–128). Among several housing assistance programs authorized under Title V, the Rural Housing Loan program and the Rural Rental Assistance Payments program offer the greatest potential benefits to persons with disabilities.

For purposes of Title V programs, a person is considered handicapped if he or she is determined to have an impairment which (1) is expected to be of long-continued and indefinite duration; (2) substantially impedes his or her ability to live independently; and (3) is of such a nature that such ability could be improved by more suitable housing conditions. A person is also considered to be disabled if he or she has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act, as amended.

B. Major Programs Affecting Persons With Disabilities

1. *Rural Rental Housing Loans.* Section 515 of the Act authorizes guaranteed/insured loans to assist in the purchase, construction, improvement or repair of rental or cooperative housing or to develop manufactured housing projects. Loans may be made to individuals, cooperatives, nonprofit organizations, state or local public agencies, proprietary corporations, trusts or partnerships. Applicants must be able to meet the obligations of the loan, furnish adequate security and have sufficient income for repayment. The proceeds of such loans may be used to finance (a) the construction purchase, improvement or repair of congregate housing; (b) certain specially designed equipment required by persons with disabilities, such as ramps, adjustable work surfaces and grab bars; and (c) certain related services or recreational facilities. Funds may not be used for nursing, special care or institutional-type homes. FY 1991 appropriations: $573.9 million.

References: Title V, Housing Act of 1949, as amended, P.L. 89–117. 42 U.S.C. 1485, 1490. C.F.D.A.: 10.415.

2. *Rural Rental Assistance Payments.* Section 521 of the Act authorizes a program of direct subsidies to reduce the effective rents paid by low-income families, including persons who are elderly or disabled, residing in rural rental housing, rural cooperative housing or farm labor housing projects. The Section 521 rent subsidy program is patterned after HUD's Section 8 housing assistance payments program. Contracts are made with the housing project sponsor to subsidize the rents of eligible tenants, when 30 percent of their adjusted net income will not cover the rental cost of decent housing. FY 1991 appropriations: $308.1 million.

References: Title V, Housing Act of 1949, as amended. P.L. 90–448 and P.L. 93–128. 42 U.S.C. 1490a. C.F.D.A.: 10.427.

C. Legislative History

The Housing Act of 1949 was amended by the Senior Citizens Housing Act of 1962 (P.L. 87–723). At that time, a new Section 515 was added to the Act to authorize rural rental loans for housing designed to meet the needs of elderly persons. Authority for a rural rental assistance program was included in the Act under the Housing and Urban Development Act of 1968 (P.L. 90–448).

Title V was expanded to cover persons with disabilities under the provisions of the Housing and Community Development Amendments of 1977 (P.L. 95–128). The 1977 amendments also extended the Section 515 loan program to cover congregate housing for persons who were elderly or disabled. Congregate housing was defined in P.L. 95–128 as facilities for elderly persons or persons with disabilities who required some supervision and centralized services but otherwise were capable of caring for themselves. Such housing was permitted to be used in conjunction with education and training facilities.

The National Affordable Housing Act of 1990 (P.L. 101–625) authorized the Secretary of Agriculture to make grants or loans to stimulate the development of affordable rental housing and related facilities for migrant farm workers and homeless individuals/families. The Act also directed the Secretary to set aside at least seven (7) percent of a state's rural rental housing funds in FY 1991 and nine (9) percent in FY 1992 for non-profit entities.

NATIONAL AFFORDABLE HOUSING ACT

A. Overview

Subpart B, Title VIII of the National Affordable Housing Act (NAHA) created a separate authority to stimulate the development of supported housing for people with disabilities. This new authority replaced the Elderly/Handicapped Direct Loan Program, originally authorized under Section 202 of the Housing Act of 1959.

Under the Act a "person with disabilities" is defined as "an individual having an impairment which (A) is expected to be of long continued and indefinite duration; (B) substantially impedes his or her ability to live independently; and (C) is of such a nature that such ability could be improved by more suitable housing conditions."

B. Major Programs Affecting Persons with Disabilities

1. ***Supportive Housing for Persons with Disabilities.*** Part B, Title VIII of the NAHA authorizes long-term (up to 40 years) direct federal loans to private nonprofit corporations to provide housing and related facilities (such as central dining rooms) for persons with disabilities. Loans are made at below market interest rates and may be used to finance the construction or rehabilitation of group homes, dwelling units in multi-family housing projects, condominiums and cooperative housing.

Subtitle B requires a potential sponsoring agency to describe in its application the needs of the persons with disabilities who are expected to be served in the proposed housing units. Housing units may be restricted to persons with "similar disabilities" and service needs. The term "supported housing for persons with disabilities" is defined in the Act as housing that "(A) is designed to meet the special needs of persons with disabilities and (B) provides supportive services that address the individual health, mental health or special needs of such persons."

Group homes must serve no more than eight persons with disabilities at any given site. In addition, the co-location of two or more group homes on the same or contiguous sites is prohibited.

The Secretary is authorized under the Act to award non-interest bearing capital advances to sponsoring agencies that are selected on a competitive basis. The total of such capital advances may not exceed $271 million in FY 1992. In addition, the Secretary is instructed to make monthly rental assistance payments to help sponsors of such projects to meet operating expenses not covered by other project income. The total of such payments may not exceed $246 million in FY 1992. The revised program went into effect on October 1, 1991.

In general, low income tenants of supported housing projects for persons with disabilities are expected to contribute 30 percent of their adjusted monthly income or 10 percent of their gross income (whichever is greater) toward the operating costs of the project. If the project is a Title XIX-certified facility (i.e., a community-based ICF/MR), the tenant's portion of operating costs must be recovered through the facility's Medicaid payment rate. FY 1991 appropriations: $106.9 million.

References: National Affordable Housing Act, P.L. 101–625, 42 U.S.C. 8013, 104 State 4324, 4331, C.F.D.A.: 14.181.

2. ***Shelter Plus Care Program.*** The Shelter Care program was established under the National Affordable Housing Act of 1990 (P.L. 101–625) to provide rental housing assistance, in connection with supportive services, for homeless persons with disabilities. The legislation specified that program funds should be directed primarily to persons (and their families) who are seriously mentally ill, have chronic alcohol or drug abuse problems (or both), or have acquired immunodeficiency syndrome (AIDS) and related diseases.

Under current HUD guidelines for the program, the term "persons with disabilities" means a household composed of one or more individuals at lease one of whom is an adult who has a disability. A person is considered to have a disability if he or she "...has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions."

A person also will be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

- is attributable to a mental or physical impairment or combination of mental and physical impairments;
- is manifested before the person attains age 22;
- is likely to continue indefinitely;
- results in substantial functional limitations in three or more of the following areas of major life activity: (a) self-care; (b) receptive and expressive language; (c) learning; (d) mobility; (e) self-direction; (f) capacity for independent living, and (g) economic self-sufficiency; and
- reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

For the purposes of this program, supportive services means assistance that (a) addresses the special needs of eligible persons; and (b) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health treatment, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential to achieving and maintaining independent living. Funding for such supportive services must be derived from sources other than the HUD Shelter Plus Care grant. FY 1991 appropriations: $110.5 million, of which $73.3 million will be used for moderate rehabilitation of single room occupancy dwellings for homeless individuals and $37.2 million for sponsor-based rental assistance.

References: National Affordable Housing Act, P.L. 101–625. 42 U.S.C. 11401 et. seq. C.F.D.A.: N/A.

3. ***Non-Profit Sponsor Assistance Program***. The Department of Housing and Urban Development (HUD) may make interest free loans to private, non-profit sponsors to cover up to 80 percent of the cost of pre-construction expenses associated with planning housing projects. Currently, any sponsors participating in the Section 801 Supported Housing Program for the Elderly and the Section 811 Supported Housing Program for People with Disabilities are eligible to receive such "seed money" loans, which are authorized under Section 106(b) of the Housing and Urban Development Act of 1968. Eligible expenses include but are not limited to organizational expenses, legal fees, consultant fees, architectural fees, preliminary site engineering fees, and fees attributable to attaining site control. FY 1991 appropriations: $0.

References: Section 106(b), Housing and Urban Development Act of 1968, P.L. 90–448, U.S.C.: 1701x. C.F.D.A.: 14.141.

4. ***Congregate Housing Services Program***. Under the Congregate Housing Services Program, the Secretary of Housing and Urban Development is authorized to enter into 3–5 year contracts with local public housing authorities or HUD-assisted elderly/disability housing sponsors. Contractors are responsible for furnishing otherwise unavailable social services to tenants who are frail and elderly or disabled. A food program (providing at least one meal per day, seven days per week) is the minimum service which a contractor must provide; however, the sponsor is given flexibility in developing other social services designed to meet the needs of tenants with physical, mental and/or emotional impairments. Other services may include transportation, personal care or housekeeping assistance; however, a housing sponsor may not duplicate services that are already available, affordable and accessible to project recipients on a long term basis.

Applicants serving non-elderly persons with disabilities are obligated to consult with disability service agencies, including vocational rehabilitation agencies, developmental disabilities councils, and state mental health/mental retardation agencies. FY 1991 appropriations: $14.5 million.

References: Congregate Housing Services Act of 1978; Title IV, Housing and Community Development Amendments of 1978, P.L. 95–557, as amended by the National Affordable Housing Act of 1990, P.L. 101–625. 42 U.S.C. 8001. C.F.D.A.: 14.170.

5. *Mortgage Insurance.* Section 232 of the Housing Act of 1959 authorizes federal mortgage insurance to facilitate the construction or rehabilitation of skilled nursing, intermediate care or board and care facilities. Section 232 also provides loan insurance for the installation of fire safety equipment. Insured mortgage funds may be used to finance construction or renovation of facilities to accommodate 20 or more individuals requiring skilled nursing care and related medical services, or those who, while not in need of nursing home care, require minimum but continuous care provided by licensed or trained personnel. Board and care homes also are eligible but must have a minimum of five accommodations or units. Nursing homes, intermediate care and board and care may be furnished in the same facility or be in separate facilities. Major operating equipment may be included in the mortgage. FY 1991 appropriations: $228.4 million.

References: Housing Act of 1959, P.L. 86–372 and Urban Development Act of 1969, as amended. P.L. 91–152, P.L. 95–128, P.L. 96–153 and P.L. 98–181. U.S.C.: 12 U.S.C. 1715. C.F.D.A.: 14.129.

C. Legislative History

Section 202 of the Housing Act of 1959 (P.L. 86–372) originated as a program of direct loans to aid local, nonprofit agencies in furnishing appropriate housing for elderly individuals. The Housing Act of 1964 (P.L. 88–560) amended Section 202 to extend housing loans to projects for persons with physical disabilities as well. The Housing and Community Development Act of 1974 (P.L. 93–383) further revised the Section 202 loan program to improve the subsidy mechanism and broaden the target population for such loans by including both persons with physical and mental handicaps. Individuals with developmental disabilities were explicitly included in the amended statutory definition of eligible "low income families."

The Housing Authorization Amendments of 1976 (P.L. 94–375) eliminated several additional barriers to participation by nonelderly persons with disabilities. Changes made by the 1976 amendments included (1) increased authorization levels for the program; (2) modification of the definition of "elderly or handicapped families" to permit certain additional groupings of persons with disabilities to qualify; and (3) provisions designed to lower the effective interest rates on Section 202 loans.

The Housing and Community Development Act of 1977 (P.L. 95–128) eliminated one further barrier to financing appropriate housing projects under Section 202, by eliminating the requirement that project costs be tied to mortgage insurance program limits established under Section 231 of the Act. The 1977 amendments also mandated coordination and joint processing of applications for Section

202 loans and Section 8 rental assistance payments, in order to reduce the time required to process Section 202 projects.

The Housing and Community Development Amendments of 1978 (P.L. 95–557) mandated that a minimum of $50 million in FY 1979 Section 202 loan funds be set aside for the construction and rehabilitation of housing for nonelderly persons with disabilities. These earmarked funds were to be used to "serve the unique needs of handicapped individuals between the ages of 18 and 62 or families with a handicapped member or members of any age." The statutory purpose of these set-aside funds was to (1) support innovative methods of meeting the needs of persons with disabilities by providing a variety of housing options ranging from small group homes to independent living complexes; (2) provide occupants with disabilities an assured range of services and opportunities for optimal independent living and participation in normal daily activities; and (3) facilitate the access of persons with disabilities to general community activities and to suitable employment within the community.

The Congregate Housing Services Act was enacted as Title IV of the Housing and Community Development Amendments of 1978 (P.L. 95–557). It temporarily authorized a program aimed at enabling individuals with functional impairment to remain independent within their own residences and, thus, avoid unnecessary institutionalization. The program was made a permanent part of federal law under the provisions of the Housing and Community Development Act of 1987 (P.L. 100–142) and later revised and recodified under the National Affordable Housing Act of 1990 (P.L. 101–625).

P.L. 95–557 also authorized the inclusion of expenses for movable furnishings in the development costs of a Section 202 project. Such costs could be covered by the loan, the legislation stipulated, if they were necessary to the basic operation of the project.

The Housing and Community Development Amendments of 1980 (P.L. 96–399) expanded the Section 202 program to include the purchase and moderate rehabilitation of existing housing designed primarily to serve non-elderly persons with disabilities. Previously, such loans could only be used for construction or substantial renovation.

The Housing and Community Development Act of 1987 (P.L. 100–142) required the Secretary of HUD to earmark at least 15 percent of Section 202 loan authority for use in developing housing for nonelderly persons with disabilities. P.L. 100–142 also directs the Secretary of HUD to adopt distinct standards and procedures reflecting the differences between the housing needs of persons with disabilities and elderly persons. In carrying out his responsibilities under the bill, the Secretary was permitted, on a demonstration basis, to test the feasibility and desirability of limiting the design of projects for non-elderly persons with disabilities to a small number of prototypical configurations. The purpose of the demonstration was to determine whether the use of preapproved designs would reduce processing time and costs.

In addition, under P.L. 100–142, the Section 8 rental subsidy used to support Section 202 loans was replaced, for projects serving non-elderly persons with disabilities only, by a 20–year contract covering all actual, necessary and reasonable costs not covered by other sources of project income. In addition, each applicant for a Section 202 "non-elderly handicapped loan" was required to submit a supportive services plan describing (a) the category of persons with disabilities to be served; (b) the range of necessary supportive services; (c) the manner in which such services would be provided; and (d) the extent of state and local funds available to assist in the provision of such services.

The enactment of Subtitle B, Title VIII of the National Affordable Housing Act (P.L. 101–625) completed the separation of supportive housing for people with disabilities and supportive housing for frail elderly individuals. Under this legislation, a distinct statutory authority was established to fund supportive housing for people with disabilities, with a separate financing mechanism and selection criteria.

P.L. 101–625 also (a) established Hope for Elderly Independence, a demonstration program "...to test the effectiveness of combining housing certificates and vouchers with supportive services to frail elderly persons to continue to live independently"; (b) created a new housing assistance program specifically for persons with AIDS "...to provide states and localities with the resources and incentives to devise long term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome"; and (c) authorized the Shelter Plus Care program for homeless individuals with special needs.

STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

A. Overview

The Steward B. McKinney Homeless Assistance Act (P.L. 100–77) is designed to assist states and localities in providing housing, health, food and employment assistance to millions of homeless Americans. Included in the Act is statutory authority for a demonstration program to provide housing and supportive services for homeless individuals and families with special needs. Subtitle C of Title IV authorizes the Supportive Housing Demonstration program. This program consists of a Transitional Housing Program and a Permanent Housing Program for homeless persons with disabilities.

B. Major Programs Affecting Persons with Disabilities

1. ***Transitional Housing***. The term "transitional housing" is defined as an assisted project that provides housing and supportive services to homeless persons with the goal of moving them to permanent housing within 24 months. Services may include: help in obtaining housing, medical and psychological services, nutrition counseling, aid in obtaining other public assistance, child care, transportation, job training or other services.

2. ***Permanent Housing***. The permanent housing for homeless persons with disabilities provides community-based, long term housing and supportive services for not more than eight homeless persons who are handicapped, using the same definition of "handicapped" as is used in Supportive Housing for Persons with Disabilities Program (see discussion above). A "handicapped homeless person" is a person who is disabled and (1) homeless; (2) not currently homeless but at risk of becoming homeless; or (3) a resident of a transitional housing project.

Assistance under both the transitional and permanent housing programs includes (a) advances to cover the acquisition and/or substantial rehabilitation of existing structures; (2) grants for moderate rehabilitation; (3) funding of operating costs (for transitional programs only); and (4) technical assistance through HUD field offices. Existing Section 811 disability housing projects may not be supported under this program. FY 1991 appropriations: $139.8 million.

References: Subtitle C, Title IV of the Stewart B. McKinney Homeless Assistance Act, P.L. 100–77, P.L. 100–242, P.L. 100–628 and P.L. 100–625, 42 U.S.C. 11381, et. seq. C.F.D.A.: 14.235.

C. Legislative History

In enacting the Steward B. McKinney Homeless Assistance Act in 1987 (P.L. 100–77), Congress authorized $80 million for grants to the states during FY 1987, of which no less than $20 million was to be set aside for transitional housing projects that serve homeless families with children and no less than $15 million was to be earmarked for permanent housing serving homeless persons with disabilities.

Under the 1988 amendments to the McKinney Act (P.L. 100–628), the maximum period of residence in a transitional housing project was increased from 18 to 24 months and a variety of changes were made in the financing of such projects. In addition, P.L. 100–628 expanded eligibility to sponsor permanent housing projects to public as well as private non-profit agencies and limited the size of projects funded under the Permanent Housing Program to no more than eight individuals, unless a waiver is granted by the Secretary of Housing and Urban Development.

The National Affordable Housing Act (NAHA: P.L. 101–625) revised the McKinney Act to expand the federal government's commitment to assisting homeless individuals/families. The eight-person cap on the number of residents in a permanent housing project was retained, except in situations where homeless persons with disabilities make up less than 20 percent of the total number of residents in a multi-family housing project (in which case up to 16 eligible individuals may live in the project). P.L. 101–625 also established the Sheltered Plus Care program (see discussion above) to complement activities funded under the McKinney Act.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

A. Overview

The Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) program, a major source of federal aid to urban areas.

These block grants may be used to support a number of projects benefiting persons with disabilities, including architectural barrier removal and construction of special public facilities. The needs of people with disabilities must be reflected in each locality's Housing Assistance Plan, a blueprint for developing appropriate housing for low income families and individuals in the community.

B. Major Programs Affecting Persons with Disabilities

1. *Entitlement Grants.* Title I of the Act authorizes formula grants to cities and urban counties that agree to perform a variety of housing and community development functions. To qualify, an applicant must be either (a) the core city in a Metropolitan Statistical Area (MSA); (b) a city with a population over 50,000 in a SMA; or (c) a county with a population of over 200,000 (excluding the population of entitlement cities within the county's boundaries). Allocations are based on a statutory formula which uses several objective measures of community need, including poverty, population, housing overcrowding and housing activities.

Among the wide range of purposes for which a local jurisdiction may use Title I dollars are the following activities which may benefit persons with disabilities: (a) the acquisition, construction, reconstruction or rehabilitation of public facilities, including centers for persons with disabilities; (b) special projects to remove architectural barriers; and (c) the provision of public services under certain restricted circumstances. In general, Title I funds may not be used to (a) construct general government buildings, schools, hospitals, nursing homes and residential housing; (b) purchase equipment or transportation facilities; (c) cover operating and maintenance expenses (except for eligible public services); and (d) make income maintenance payments.

The basic CDBG application must include (1) an identification of community development and housing needs, including both short term and long range objectives; (2) a list of the activities to be undertaken; (3) an estimate of costs; (4) the general locations of all activities; (5) a description of other resources that will be utilized; (6) maps indicating any concentrations of minority groups or lower income families; and (7) a Housing Assistance Plan which includes a survey of the housing stock in the local jurisdiction, an estimate of the housing assistance needs of lower income families, both one year and three year housing assistance goals, and the locations of proposed new construction or rehabilitation activities. FY 1991 appropriations: $1.98 billion.

References: Title I, Housing and Community Development Act of 1974, as amended. P.L. 93-383, P.L. 95-128, P.L. 95-557, P.L. 96-399 and P.L. 97-35. 42 U.S.C. 5301 et. seq. C.F.D.A.: 14.218.

2. ***Non-Entitlement Grants.*** Title I also authorizes formula and project grants to help small cities develop viable urban communities by providing decent housing, a suitable living environment and expanding economic opportunities. A state has the option of administering this non-entitlement grant funds itself, in which case it is free to establish its own programs and funding priorities; or a state may choose to have HUD administer such funds for small cities within its jurisdiction on a project grant basis. [N.B., As of 1991, all states were administering such non-entitlement funds except New York and Hawaii.]

Non-entitlement CDBG funds may be used to carry out a wide range of community development activities, including acquisition, rehabilitation or construction of certain public facilities and improvements, slum clearance, housing rehabilitation, code enforcement, relocation payments and assistance, administrative expenses, economic development, urban renewal projects and certain public services. FY 1991 appropriations: $902.9 million (state administered); $36.3 million (HUD administered).

References: Title I, Housing and Community Development Act of 1974, as amended. P.L. 93-383, P.L. 95-128, P.L. 95-557, P.L. 96-399 and P.L. 97-35. U.S.Code" 42 U.S.C. 5301-17. C.F.D.A.: 14.219 and 14.228.

C. Legislative History

The federal government's involvement in community development assistance began with the passage of Title I of the Housing Act of 1949 (P.L. 81–171). Title I authorized urban renewal grants to stimulate improvements in urban areas, slum clearance, and new construction. Various housing and urban development acts in the 1950s and 1960s created additional urban assistance programs, including: model cities aid, water and sewer facilities loans, open spaces and neighborhood improvement grants, housing rehabilitation, and public facility loans. Title I of the Housing and Community Development Act of 1974 (P.L. 93–383) consolidated these various categorical urban assistance authorities into a single formula grant program, called the Community Development Block Grant program.

The program was designed to "provide assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning." Authority and responsibility for initiating and implementing community development plans were assigned to local elected officials. HUD was to participate as a review agency, with limited power to disapprove the award of block grant funds.

The primary objective of the CDBG program is the development of viable urban communities through the provision of decent housing and a suitable living environment as well as expanded economic opportunities—principally for persons with low and moderate incomes. Two general types of funds are made available under the Community Development Block Grant program: (1) entitlement grants and (2) discretionary grants. Cities with populations of 50,000 or more, urban counties with 200,000 or more, and central cities in metropolitan regions (Metropolitan Statistical Areas, or MSA's) are eligible for entitlement funds.

Under the original 1974 Act, the funding level for a particular community was based upon a formula which took into account population, overcrowded housing, and poverty (the latter factor was double-weighted). However, the Housing and Community Development Act of 1977 (P.L. 95–128) added an alternative formula. Under the new approach, communities were permitted to receive either the amount computed under the old formula or under a new formula, whichever was greater. The new formula was calculated by multiplying growth lag (20 percent) times poverty (30 percent) times the average age of the housing stock (50 percent). The 1977 amendments also added a general requirement that the CDBG program ensure full opportunity for participation by, and benefits to, persons with disabilities.

The Housing and Community Development Amendments of 1976 (P.L. 94–375) added "Centers for the Handicapped" to the statutory list of purposes for which CDBG funds could be used.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35) gave state and local jurisdictions increased discretion in the use of CDBG funds. The control of the non-entitlement funds were loosened. In addition, P.L. 97–35 streamlined the CDBG application and citizen participation processes.

The Housing and Community Development Act of 1987 (P.L. 100–142) amended the statutory authority of the CDBG program by (a) further targeting benefits to persons with low and moderate income; (b) requiring grantees to develop and follow a detailed citizen participation plan; (c) requiring cities to prepare an anti-displacement and relocation assistance program as part of any urban redevelopment plan; and (d) instituting stricter criteria for the award of Urban Development Action Grants.

The Neighborhood Reinvestment Corporation was established under Section 917 of the National Affordable Housing Act (P.L. 101–625) to provide ongoing technical assistance and support to neighborhood housing services and related public-private partnerships involved in urban revitalization efforts, the preservation of existing housing stock and the production of additional housing opportunities for low and moderate income families. P.L. 101–625 also required CDBG grantees to develop housing affordability strategies.

CONSOLIDATED FARMS AND RURAL DEVELOPMENT ACT

Section 306 of the Consolidated Farms and Rural Development Act of 1972 authorizes a program of loans for rural community facilities. Loans may be used to construct, enlarge, extend or otherwise improve public facilities providing essential services to rural residents. Eligible applicants include state and local government agencies and other nonprofit organizations or associations. A number of local communities have used the proceeds of such loans to build group homes and sheltered workshops for persons with developmental disabilities. FY 1991 appropriations: $95 million.

References: Consolidated Farms and Rural Development Act of 1972, P.L. 92–419. U.S.C.: 7 U.S.C. 1926. C.F.D.A.: 10.423.

INCOME MAINTENANCE

FEDERAL OLD AGE, SURVIVORS AND DISABILITY INSURANCE BENEFITS

A. Overview

Title II of the Social Security Act authorizes a program of Federal disability insurance benefits for workers who have contributed to the Social Security trust funds and become disabled or blind before retirement age. Spouses with disabilities and dependent children of fully insured workers (often referred to as the primary beneficiary) also are eligible for disability benefits upon the retirement, disability or death of the primary beneficiary.

Under the definition of disability in the Social Security Act, disability benefits (except those paid to widows, widowers and surviving divorced spouses) are provided to a person who is unable to engage in any "substantial gainful activity" by reason of a medically determinable physical or mental impairment that has lasted or is expected to last at least 12 months, or result in death. Applicants must furnish medical and other evidence as specified by the Social Security Administration to prove the existence of a disability.

Family members of workers who are retired, deceased or disabled are eligible for benefits if they are (1) unmarried children under 18 years of age or, if a student, under age 19; (2) unmarried adult offspring of any age if their disability occurred before age 22; (3) wife or husband at any age if a child in his or her care is receiving benefits on the worker's Social Security record and is under age 16 or is disabled; or (4) a spouse age 62 or over.

Individuals who have been entitled to disability benefits for 24 consecutive months also are eligible to receive health insurance benefits under Title XVIII of the Social Security Act (Medicare; for details on Medicare see below). In addition, the law requires that OASDI recipients be referred to the state's vocational rehabilitation agency in an effort to maximize the number of individuals with disabilities returned to productive activity.

B. Major Programs Affecting Persons with Disabilities

1. *Disability Insurance Benefits.* Title II authorizes a program of monthly cash benefits paid directly to eligible persons with disabilities and their eligible dependents throughout a period of disability. There are no restrictions on the use of payments received by Social Security beneficiaries. The amount of the payment is based on the age at which the worker incurred the disability, as well as his or her earnings and length of employment. Benefits may be reduced if other federal, state and local benefits are received. After applying for benefits individuals are required to wait five months before qualifying for Social Security Disability Income (SSDI) benefits. No new waiting period is required if a worker with a disability returns to the disability rolls within five years of leaving the rolls.

To qualify for monthly payments, an individual must (a) have paid Social Security taxes for enough years (i.e., roughly half the years since the person was 21 years of age); (b) not be working, or working but earning less than the "substantial gainful activity" level; and (c) have a medical disability, as determined by the state Disability Determination Service (or by an appeals process, involving an administrative law judge or district court) or during a "continuing disability review."

A continuing disability review may be conducted for any number of reasons, including (a) when the original disabling condition is expected to improve over time; (b) when the case is scheduled for medical review (after three years if improvement is anticipated, or seven years if it is not); or (c) when the Social Security Administration receives information that the individual's condition appears to have improved. If the individual is found to no longer have a disability, benefits are terminated, unless he or she is participating in an approved state vocational rehabilitation plan.

A new beneficiary must wait 24 months (in addition to the five month waiting period) to qualify for Medicare coverage. If a person's disability ends but then reoccurs, he/she is not required to wait for an additional 24 months to qualify for Medicare coverage. FY 1991 appropriations (est.): $26.660 billion.

References: Title II, Social Security Act of 1935, as amended. P.L. 89-97, P.L. 90-248, P.L. 92-603, P.L. 93-233, P.L. 95-216, P.L. 96-265, P.L. 97-35, P.L. 98-21 P.L. 98-369, P.L. 99-509, P.L. 99-514, P.L. 100-647, P.L. 101-239 and P.L. 101-508. 42 U.S.C. 401; 420-425. C.F.D.A.: 93.802.

2. *Adult Disabled Child Program.* Section 202(d) of the Act authorizes disability insurance payments to surviving children of retired, deceased or workers with disabilities who were eligible to receive Social Security benefits, if the child has a permanent disability originating before age 22. The child's benefit payment is one-half the primary insurance amount of the eligible parent while the parent is living and receiving Social Security retirement or disability benefits, and three-fourths of the primary insurance amount after the eligible parent is deceased. FY 1991 appropriations: included in the total for the Disability Insurance program (see above).

References: Title II, Social Security Act of 1935, as amended by P.L. 90–248, P.L. 92–603, P.L. 93–66, P.L. 95–216, P.L. 96–473, P.L. 98–369, P.L. 99–509, P.L. 99–524, P.L. 100–203, P.L. 100–647, P.L. 101–239 and P.L. 101–508. 42 U.S.C. 401; 420–425. C.F.D.A: 93.802.

3. *Rehabilitation Services.* Section 222 of the Act requires the Social Security Administration to refer all applicants and recipients of OASDI disability insurance benefits to the state vocational rehabilitation agency. In addition, this section of the statute authorizes the transfer of funds from the Disability Insurance Trust Fund to state vocational rehabilitation agencies in order to reimburse such agencies for the provision of certain rehabilitation services provided to Title II applicants and beneficiaries. The VR agency is reimbursed for its services only after the recipient has been substantially gainfully employed for nine months. The goal of such services is to reduce the dependency of beneficiaries with disabilities on income assistance payments and, whenever possible, return them to remunerative employment.

Section 222 also authorizes a "trial work period," which is intended to help beneficiaries to test their ability to work without losing OASDI benefits. Under this provision, the beneficiary can work for nine months (not necessarily consecutive); each month that he or she earns more than $200 is a countable month. At the end of a "trial work period" (TWP), a beneficiary may qualify for an "extended period of eligibility," a 36 month period following a TWP in which cash payments are reinstated during any month in which an individual whose disability remains (i.e., he/she does not "medically recover") has earnings below the "substantial gainful activity" level. Effective January 1, 1992, a person (a) does not use up his/her trial work period unless the nine work months are completed within a rolling 60–month period; and (b) receives a new TWP every time he/she becomes reentitled to a new period of disability by filing a new application.

"Substantial gainful activity" is defined as the performance of significant physical and mental work activities for pay or profit. It is usually determined to be countable earnings in excess of $500 per month. [N.B., The limit for individuals with blindness increases annually and is, therefore, considerably higher—i.e., $810 in 1991]. Certain "impairment related work expenses" are deducted from a person's earnings in determining whether he/she is engaging in "substantial gainful activity."*

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*For a more complete discussion of the work incentive provisions of the Social Security and Supplemental Security Income programs, readers are referred to the Redbook on Work Incentives. Single copies of this non-technical explanation of current statutory and regulatory provisions may be obtained free of charge from the nearest regional office of the Social Security Administration (SSA Pub. No. 64-030).

References: Title II, Social Security Act of 1935, as amended. P.L. 89-97, P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 95-116, P.L. 96-265, P.L. 98-369, P.L. 98-460, P.L. 99-509, P.L. 100-203 and P.L. 101-508. 42 U.S.C. 422. C.F.D.A.: 93.802.

4. *Experimental and Demonstration Projects.* Sections 702 and 1110 of the Social Security Act authorize the Secretary of the Department of Health and Human Services to make grants available for research studies concerning the nature of disability and its effect on an individual's ability to function in society, as well as methods of determining when a disability exists. Among other areas of research grantees may conduct are projects which determine the relative advantages and disadvantages of (a) various alternative methods of treating the work activity of OASDI beneficiaries with disabilities, including ways to assist them in returning to work; and (b) modifying other limitations and conditions related to beneficiaries with disabilities such as the trial work period, the 24 month waiting period for Medicare benefits, earlier referral to vocational rehabilitation services and greater use of employers to further the objectives or improve the administration of Title II. FY 1991 appropriations: $6 million.

References: Section 702 and Section 1110 of the Social Security Act of 1935, as amended by P.L. 96-265 and Section 505 of P.L. 96-265, as amended by P.L. 99-272 and P.L. 101-239. 42 U.S.C. 401-433, 902, 1310, and 1381-1388c. C.F.D.A.: 93.812.

C. Legislative History

The Social Security Disability Insurance program originated in 1954, when amendments to the Social Security Act (P.L. 83-761) included a provision for a disability "freeze" which would allow workers with disabilities to protect their retirement benefits against the effects of nonearning years.

In 1956, amendments to the Act (P.L. 84-880) established the Disability Insurance Trust Fund under Title II, and provided for the payment of benefits to workers with disabilities, but not to their dependents. Under the 1956 legislation, benefits were to begin after a six month waiting period and were limited to workers age 50 or over who had recently and substantially paid Social Security taxes. The disabling condition had to be severe enough to prevent the individual from engaging in any substantial employment and be of "long-continued and indefinite duration." The 1956 amendments also made "adult disabled children," who were dependents of retired or deceased workers, eligible for Social Security benefits, provided the dependent's disability began prior to age 18.

Amendments to the Act in 1958 (P.L. 85-840) and 1960 (P.L. 86-778) authorized the extension of benefits to dependent spouses and children of workers with disabilities and relaxed statutory requirements related to the worker's prior work history and contributions to the Social Security fund. Also in 1960, the limitation on benefits to workers over age 50 was eliminated, and beneficiaries were encouraged to return to work by the addition of provisions (1) authorizing a nine month trial work period during which the recipient could have earnings without imperiling benefit payments; and (2) eliminating the six month waiting period for benefits if a worker applied for disability a second time after failing in an attempt to return to work.

The Social Security Amendments of 1965 (P.L. 89–97) revised the definition of disability from "long-continued and indefinite duration" to disabilities expected to last at least 12 months or result in death. The definition of disability in the case of blindness also was liberalized to exempt individuals who are legally blind, between 55 and 65 years of age, from the substantial gainful activity test. An alternate insured status also was provided for persons who were disabled with blindness before age 31.

In addition, P.L. 89–97 authorized reimbursement from the Disability Insurance Trust Fund to state vocational rehabilitation agencies for the cost of rehabilitation services furnished to selected OASDI beneficiaries with disabilities. Such reimbursements, however, were limited to one percent of the previous year's expenditures for disability insurance payments.

The Social Security Amendments of 1967 (P.L. 90–248) emphasized the role of medical factors in the determination of disability and provided more specific guidelines for considering vocational factors. The 1967 amendments stipulated that individuals could be determined to have a disability only if their impairments were so severe that they were unable to perform their previous work and could not, considering age, education and work experience, engage in any other kind of substantial gainful work which existed in the national economy.

The Social Security Amendments of 1972 (P.L. 92–603) reduced the waiting period for disability benefits from six to five months and increased the limit on reimbursements to state vocational rehabilitation agencies for services to disability insurance recipients from one percent to one and a half percent of the previous year's disability payments.

In 1973, Social Security Act amendments (P.L. 93–66) tied increases in benefit levels under the disability insurance program to the Consumer Price Index, thus authorizing automatic annual cost-of-living adjustments in benefit payments.

The Social Security Act Amendments of 1977 (P.L. 95-216) increased the Social Security tax rate and modified other statutory provisions in order to restore the financial solvency of the Social Security trust funds. In addition, P.L. 95-216 stipulated that a beneficiary with blindness would not be considered to have engaged in substantial gainful activity unless his or her monthly income exceeded the retirement test under Title II. However, the substantial gainful activity test would continue to be applied to such recipients.

The Disability Amendments of 1980 (P.L. 96–265) allowed recipients with disabilities to have their benefits reinstated if their earnings fell below the SGA level during any month subsequent to the termination of benefits at the end of a trial work period. This change, in effect, extended the trial work period to 24 months, although the recipient was not entitled to cash benefits during the second 12 months if he or she had earnings that exceeded the SGA level. P.L. 96–265 also limited SSDI family benefits to 85 percent of a worker's Average Indexed Monthly Earning (AIME) or 150 percent of the worker's Primary Insurance Amount, whichever was less. However, in no case would benefits be less than 100 percent of the worker's primary benefit. This limitation was to apply only to individuals who became eligible for benefits after July 1, 1980. In the case of individuals returning to the disability benefits rolls, the 1980 amendments also eliminated a second waiting period for Medicare eligibility. For an individual whose disability had not been determined to be permanent, P.L. 96–265 mandated a review of continued SSDI eligibility every three years. Finally, the 1980 amendments required beneficiaries to engage in SGA for nine months before the VR agency could be reimbursed.

The Social Security Reform Act of 1983 (P.L. 98-21) extended OASDI coverage to (a) all new federal employees hired on or after the effective date of the legislation; (b) all legislative branch employees not participating in the Civil Service Retirement System, as of December 31, 1983; (c) all employees of nonprofit organizations not presently covered by Social Security; and (d) all Members of Congress, the President, the Vice President, all federal judges and other executive level federal political appointees.

The 1983 amendments also mandated that one-half of Social Security benefits be treated as taxable income for individuals with an annual income of $25,000 or more ($32,000 for couples).

The Social Security Disability Benefits Reform Act of 1984 (P.L. 98–460) authorized disability benefits to be terminated only under the following conditions: (a) there is evidence of medical improvement in the individual's impairment and he/she is now able to engage in SGA; (b) although there is no medical improvement, the person has benefitted from advances in medical or vocational therapy/technology and, therefore, is able to perform SGA; (c) although there is no medical improvement, the person has benefitted from vocational therapy and, therefore, is able to perform SGA; (d) based on new diagnostic techniques, the impairment(s) is found to be not as disabling as it was believed to have been at the time of the prior determination and, consequently, the individual is able to perform SGA; (e) the prior determination was in error or fraudulently obtained; or (f) if the individual is engaging in SGA, and fails, without good cause, to cooperate in the review, follow the prescribed treatment or cannot be located.

P.L. 98–460 also authorized benefit payments to be continued during appeal for all beneficiaries involved in continuing disability reviews through the decision of the Administrative Law Judge. Benefits have to be repaid if the ALJ decides in favor of the government. The provision as it applied to SSDI recipients was only authorized through December 1987. However, it subsequently was extended on several occasions and finally made permanent under the provisions of the Omnibus Budget Reconciliation Act of 1990 (OBRA-90; P.L. 101–508).

The Employment Opportunities for Disabled Americans Act of 1986 (P.L. 99–643) permitted Social Security adult-childhood disability beneficiaries to receive continued Medicaid coverage when they lost their SSI eligibility solely due to the receipt of Title II (SSDI) benefits or an increase in Title II benefits. This amendment was designed to protect such beneficiaries from the precipitous loss of medical coverage due to receipt of (or increases in) cash benefits.

P.L. 100–203 also (a) extended the disability re-entitlement period from 15 to 36 months, effective January 1, 1988; and (b) extended to 36 months the period of continued Medicare eligibility based on entitlement to disability benefits.

OBRA-90 extended to SSDI and SSI beneficiaries who medically recover while participating in an approved non-state vocational rehabilitation program the same benefit continuation rights as those currently available to persons who medically recover while participating in other approved vocational rehabilitation programs. The effect of this amendment was to offer participants in approved, privately-sponsored vocational rehabilitation programs the same rights to continuation of benefits as now apply to participants in programs sponsored by the state VR agency.

SUPPLEMENTAL SECURITY INCOME

A. Overview

Title XVI of the Social Security Act authorizes the Supplemental Security Income (SSI) program, a federally-administered cash assistance program designed to provide people who are needy, aged, blind or disabled with a minimum income. Unlike Social Security Disability Insurance (SSDI) benefits, SSI cash payments are available only to individuals who are aged, blind or disabled and meet a statutory test of financial need. Another principal difference between the two income maintenance programs is that SSI benefits are paid from general revenues appropriated by Congress, while SSDI benefits are derived from a special trust fund financed through Social Security taxes paid by over 100 million covered workers and their employers. The SSI program also includes special provisions to encourage recipients to work, while continuing their eligibility for benefits.

B. Major Programs Affecting Persons with Disabilities

1. ***Basic Supplemental Security Income Program.*** Title XVI authorizes federal financial benefits for individuals (and couples) who are needy, disabled, blind or elderly (age 65 or older). Monthly payment rates for individuals and couples are indexed to the Consumer Price Index and increased by the same percentage as Social Security benefits. Effective January, 1992, eligible individuals are entitled to receive $422 a month, while eligible couples get $633 per month. The Social Security Administration is authorized to make emergency advance payments at the full SSI monthly benefit rate to individuals who are presumptively eligible for SSI benefits and who face a financial crisis.

Eligibility for SSI benefits is based on the individual's (or couple's) age or disability status, combined with evidence of financial need. The definition of disability and blindness used under the SSI program parallels the language of Title II (Social Security) of the Act. The one exception is that Title XVI requires childhood SSI recipients (18 years of age or younger) to have a medically determinable physical or mental impairment of comparable severity to the adult criteria. [N.B., Since, under Title XVI, children are entitled to SSI benefits on their own behalf, it is necessary for the law (and implementing regulations/administrative policies) to apply a standard other than "ability to engage in substantial gainful activity" to determine the severity of a childhood disability.]

In calculating an individual's eligibility, the Social Security Administration—the federal agency responsible for administering the SSI program—is directed to disregard the first $20 of monthly income an individual receives from any source and up to $65 in any additional earned income. Any additional unearned income an applicant/recipient receives each month results in a dollar-for-dollar reduction in his or her SSI benefits. Earned income above the original disregard level ($65 a month; or up to $85 if the individual has no unearned income) causes a one dollar reduction in the benefit payment for every two dollars of additional earnings. In-kind support and maintenance provided by a non-profit agency are not counted if they are provided on the basis of need.

In addition to meeting the above income test, an individual may have personal resources which exceed certain statutory limits. For example, an individual with savings exceeding $2,000 ($3,000 for a couple) is not eligible to receive SSI benefits. However, ownership of a car or a modest-priced home are not taken into account in calculating an individual's (or couple's) eligibility for SSI benefits nor is up to $1,500 of burial funds and life insurance.

If an eligible individual is living in another person's household and receiving support and maintenance from that person, his or her basic monthly payment is reduced by one-third. Furthermore, if an eligible individual is living in a public, nonmedical institution, he is ineligible for benefits. If, on the other hand, he resides in a public medical institution or a private health care facility which receives substantial Medicaid payments on his or her behalf, federal SSI benefits are reduced to a personal needs allowance of $30 per month (effective July 1, 1988). Any individual who is admitted to an institution to receive medical or psychiatric care and is expected to be discharged within three months may continue to receive full SSI benefits (effective July 1, 1988), if he or she must maintain a home in the interim.

States may elect to supplement the basic federal SSI payment. Such supplemental payments may either be administered directly by the states or through a contractual arrangement with the Social Security Administration. If a state elects federal administration of its supplemental payments, all associated administrative costs are borne by the federal government. As of January, 1991, 41 states supplemented the regular federal SSI benefit standard, although eligibility for, and the amounts of, such supplemental payments varied considerably from state-to-state. FY 1991 appropriations (est.): $16.251 billion.

References: Title XVI, Social Security Act, as amended. P.L. 92-603, P.L. 93-66, P.L. 93-233, P.L. 94-566, P.L. 94-569, P.L. 95-216, P.L. 96-265, P.L. 97-35, P.L. 98-21, P.L. 94-569, P.L. 99-272, P.L. 99-643, P.L. 100-203, P.L. 100-647, P.L. 101-239 and P.L. 101-508. 42 U.S.C. 1381-1383c. C.F.D.A.: 93.807.

2. *Rehabilitation, Treatment, Referral and Counseling Services.* Under Section 1615 of the Act, adults under 65 years of age, who are receiving SSI benefits, must be referred to the state vocational rehabilitation agency for evaluation to determine whether they are eligible to receive services under Title I of the Rehabilitation Act (see section on "Vocational Rehabilitation" below). On the other hand, childhood recipients, under age 16, must be referred to the designated state agency serving children with disabilities. Similar to the requirement under the Title II disability insurance program, SSI recipients may not refuse, without good cause, rehabilitation services. Services provided to selected SSI recipients through state vocational rehabilitation agencies may be reimbursed by the federal government out of a special appropriation set aside for this purpose after an individual has been substantially gainfully employed for nine months. The aim of this program is to assist SSI recipients with a disability or blindness to enter or re-enter the work force, whenever possible.

Children who are blind and/or disabled must be referred to the state agency which administers the state Maternal and Child Health Block Grant Program, as authorized under Title V of the Social Security Act or another agency designated by the Governor. One purpose of the Title V program is to provide rehabilitation services to children with disabilities or blindness who are under age 16 and receiving SSI benefits. States have a great deal of flexibility in planning, promoting, coordinating and implementing health care programs for children under this block grant program.

References: Title XVI, Social Security Act of 1935, as amended. P.L. 92-603, P.L. 94-566, P.L. 95-216, P.L. 96-265, P.L. 97-35, P.L. 98-369 and P.L. 99-643. 42 U.S.C. 1382d. C.F.D.A.: N/A.

3. *Work Incentives.* Section 1619(a) and (b) of the Social Security Act authorizes special SSI benefits and continued Medicaid coverage for individuals who are able to work, despite the fact that they have not recovered from their disabilities. Under certain circumstances, such individuals may earn an amount higher than SGA, yet continue to receive SSI and Medicaid benefits. These continued benefits are intended to encourage qualified recipients to work.

To qualify for continued SSI cash payments under Section 1619(a) of the Act, an individual must (a) have the original disabling impairment under which eligibility for SSI was initially determined; and (b) must meet all other eligibility rules including the income and resource tests. The amount of cash assistance an individual receives equals the amount the individual would have received under the regular SSI program if the SGA eligibility cutoff were ignored. Benefit payments are reduced by one dollar for every additional two dollars of earnings above the basic income exclusions. Cash assistance is terminated when the recipient's countable income exceeds the amount which would cause the federal SSI payment to be reduced to zero (known as the "break-even point"). An individual receiving special Section 1619(a) cash benefits also remains eligible for Medicaid coverage.

After an individual is no longer eligible for Section 1619(a) benefits due to excess earning, he or she, nonetheless, may qualify for continued Medicaid coverage. Section 1619(b) of the Act extends Medicaid coverage to individuals with disabilities or blindness who lose SSI or Section 1619(a) benefits because of their income, but who remain unable to afford health care coverage equivalent to that offered under the Medicaid program.

If an SSI recipient who is eligible for benefits under Section 1619 enters a public institution or Medicaid-certified facility, the individual remains eligible for full SSI benefits for two months, to enable him or her to meet expenses outside the institution. The facility must agree to allow the individual to continue to receive his or her benefits.

SSI recipients who demonstrate a capacity to work are automatically moved to the special benefit status of Section 1619(a) or (b). In recognition of the fact that persons with severe disabilities often face setbacks in their attempts to engage in gainful employment, the legislation allows recipients to move back and forth between SSI, Section 1619(a) and Section 1619(b) status without reestablishing eligibility. In addition, a person with a qualifying disability who becomes ineligible for SSI or Section 1619 benefits for less than 12 months may be reinstated without having his or her disability status redetermined.

References: Title XVI, Social Security Act of 1935, as amended, P.L. 96-265, P.L. 98-460, P.L. 99-643, P.L. 100-647, P.L. 101-239 and P.L. 101-508. 42 U.S.C. 1382h. C.F.D.A.: N/A.

C. Legislative History

The Social Security Act, as originally enacted in 1935, did not authorize cash benefits for low income individuals with disabilities, although there were limited provisions for assisting persons with blindness. In 1950, a public assistance program for the "totally and permanently disabled" was added to the Social Security Act. Basic eligibility standards and assistance levels were determined by each state, according to broad standards set forth in the statute. This "Aid to the Permanently and Totally Disabled" program was administered by the states with financial assistance from the federal government. Over the next two decades, numerous changes were made in the statutory authority of the program, but, the essentially state-run, federally-assisted character of the program remained unaltered.

Under the Social Security Amendments of 1972 (P.L. 92-603), however, Congress repealed existing public assistance programs for older persons and individuals with blindness or other severe disabilities adding in their place a new Title XVI to the Act. This new title authorized a consolidated, federally-administered program of cash benefits for needy adults, called the Supplemental Security Income program. Under this program, a basic federal income support level was established for individuals and couples who are aged, blind or disabled. Eligibility was to be determined and benefits paid by the federal government, acting through the Social Security Administration. States were permitted to supplement the basic federal income support levels on behalf of selected classes of recipients.

The definitions of disability and blindness used in Title XVI generally followed the provisions of Title II of the Act. In addition, for the first time, children under 18 years of age with disabilities or blindness were made eligible for benefits, provided their disabilities were of comparable severity to adult recipients. However, while P.L. 92–603 relieved parents of financial liability for support of their adult offspring with disabilities, the law continued to hold parents liable for the care of minors with disabilities as long as they were living at home.

In 1973, two sets of amendments to the Social Security Act (P.L. 93–66 and P.L. 93–233) modified Title XVI to assure eligible individuals an adequate income and to protect certain recipients against loss of benefits. Included in these amendments were provisions which:

- extended SSI benefits to so-called "essential persons"—i.e., persons needed to care for SSI recipients—under certain conditions (P.L. 93–66);
- required states to supplement federal SSI payments to current recipients who otherwise would have had their payments reduced when the new "federalized" program went into effect (P.L. 93–66); and
- protected certain groups of SSI recipients against the loss of Medicaid eligibility after SSI went into effect including: (1) essential persons; (2) individuals with disabilities who did not meet the federal definition of disability and yet were eligible for Medicaid as a medically needy recipient; and (3) individuals who were inpatients in medical institutions and whose special needs made them eligible for assistance (P.L. 93–66).

A series of Social Security Act amendments were enacted under the Unemployment Compensation Amendments of 1976 (P.L. 94–566). The following provisions affected the Supplemental Security Income program:

- The Social Security Administration was required to refer all SSI eligible children, under 16 years of age, to the state crippled children's agency or another agency designated by the Governor. This agency was obligated to develop a plan which included provision for: (a) administration of the program; (b) coordination with other agencies serving children with disabilities/blindness; and (c) establishment of a unit which would be responsible for counseling, referring and serving youngsters with blindness and disabilities who were eligible for SSI benefits. The state plan requirement was repealed in 1981 by P.L. 97–35, which converted the Maternal and Child Health Program to a block grant authority;

- Section 505 of P.L. 94–566 modified the definition of a "public institution" to exclude publicly-operated community residences serving 16 or fewer individuals. The purpose of this amendment was to eliminate a major disincentive to the development of group homes for persons with mental retardation under public auspices;
- Section 505 also stipulated that assistance furnished on the basis of need to, or on behalf of, an SSI applicant by a state or local government would not be counted as unearned income for purposes of determining eligibility or the amount of an individual's SSI payment. Under the previous law, only certain types of public payments were disregarded (e.g., formal state supplemental payments and payments for medical care and social services);
- Section 1616(e) of the Act was repealed by P.L. 94–566. This controversial provision called for a dollar-for-dollar reduction in the federal SSI payment when a state made a supplemental payment on behalf of any eligible resident in a facility providing services which could have been financed under the state's Medicaid program. In its place, the 1976 amendments substituted a provision requiring the states to establish and enforce standards governing care in nonmedical facilities housing a significant number of SSI recipients; and
- P.L. 94–566 directed the Social Security Administration to publish criteria for making childhood disability determinations within 120 days after enactment of the legislation.

Presumptive disability, a procedure for initiating payments to certain individuals with severe handicaps prior to completion of a formal disability determination, was extended to persons with blindness in 1976 (P.L. 94–569). Prior to the enactment of this legislation, only applicants with disabilities could be declared presumptively eligible.

In 1980, the Social Security Act was amended (P.L. 96–265) to authorize special cash payments (Section 1619(a)) and continued Medicaid eligibility (Section 1619(b)) for individuals who receive SSI benefits but, nonetheless, engage in substantial gainful activity. The provisions of this law were effective for three years, until January

1984. At the conclusion of the pilot period the Secretary of HHS was directed to evaluate the program and report his findings to Congress.

P.L. 96–265 also established a three-year pilot program to assist the states in furnishing medical and social services to certain workers with severe handicaps. Under this program (Section 1620 of the Act) states were authorized to provide medical and social services to individuals who were (a) severely disabled; (b) earned more than the SGA level; and (c) were not receiving federal SSI payments or Section 1619(a) or (b) benefits.

P.L. 96–265 also directed the Social Security Administration to treat all remuneration received by clients in sheltered workshops and work activity centers as earned income for purposes of determining SSI eligibility and benefits. The effect of this provision was to qualify such individuals for the SSI earned income disregard and preserve their benefits.

The Omnibus Budget Reconciliation Bill of 1981 (P.L. 97–35) eliminated the minimum benefit for newly eligible recipients. P.L. 97–35 also altered the procedures for reimbursing vocational rehabilitation agencies, authorizing payments only after the recipient had engaged in substantial gainful activity for nine consecutive months.

P.L. 97–35 also deleted from Section 1615 the provision requiring mandatory referral of children with blindness or disabilities to the state crippled children's program and, instead, specified that children be referred to the state agency that administers the Maternal and Child Health Block Grant Program.

Finally, P.L. 97–35 authorized the Secretary of HHS to waive eligibility restrictions and payment reductions applicable to otherwise eligible persons residing in institutions for up to two months.

The Social Security Amendments of 1983 (P.L. 98–21) indexed SSI benefits to the lesser of the Consumer Price Index or the person's yearly wage increase, and changed the annual benefit adjustment date to January instead of July.

The Social Security Disability Benefits Reform Act of 1984 (P.L. 98–460) extended the Section 1619 program (originally established in 1980) for another three years. The 1984 amendments also (a) required the Secretary of HHS to publish uniform standards for SSI and SSDI disability determinations; (b) imposed a moratorium on reviews of all disability cases involving mental impairment until the Social Security Administration's revised "Listing of Impairments" was published; (c) directed the next quadrennial Advisory Council on Social Security to study the medical and vocational aspects of disability; (d) empowered the Secretary of HHS to promulgate regulations establishing standards for determining the frequency of continuing eligibility reviews; and (e) directed the Secretary to establish a system for monitoring representative payees.

The Employment Opportunities for Disabled Americans Act (P.L. 99–643) made the Section 1619(a) and (b) work incentives a permanent feature of the Social Security Act. P.L. 99–643 also repealed the "trial work period" and the "extended period of eligibility" for SSI recipients receiving Section 1619 benefits. Instead, new provisions were added to the Act to enable individuals to move back and forth among regular SSI, Section 1619(a) and Section 1619(b) eligibility status. Finally, P.L. 99–643 explicitly required two levels of review of an individual's medical condition when he or she moved between eligibility categories.

P.L. 100–203, the Omnibus Budget Reconciliation Bill of 1987, included provisions which (a) authorized a permanent disregard of in-kind assistance to SSI recipients furnished by nonprofit organizations; (b) increased SSI emergency advance payments to the full monthly benefit rate for presumptively eligible persons who face a financial crisis; (c) required SSA to give SSI recipients with blindness the option of receiving notices by telephone, registered letter or other means; (d) continued SSI benefits to recipients with blindness whose visual impairment has ceased, if they are participating in an approved vocational rehabilitation program; (e) allowed recipients to continue to receive full SSI benefits when they are temporarily residing in medical institutions (for up to three months) to enable them to maintain a home; and (f) increased the personal needs allowance of SSI recipients who are residing in a Medicaid-certified facilities from $25 to $30 per month (from $50 to $60 for couples).

The Omnibus Budget Reconciliation Act of 1989 (OBRA-89; P.L. 101–239) included a series of amendments to the SSI program. Among these changes were:

- the Social Security Administration (SSA) was required to establish a permanent outreach program for children who are blind or otherwise disabled;
- eligibility for SSI benefits was extended to children with disabilities who reside overseas with a parent who is a member of the U.S. Armed Forces;
- the SSI income and resource deeming rules are to be waived for children with severe disabilities who qualify for Medicaid under a state home care plan, are eligible for SSI and living in a medical institution, and

- in determining income for SSI purposes, the value of a domestic commercial transportation ticket that is not converted to cash is not to be taken into account.

The Omnibus Budget Reconciliation Act of 1990 (OBRA-90; P.L. 101–508):

- eliminated the upper age restriction (65 or older) on coverage under the Section 1619 work incentive provisions of the Act, effective May 5, 1991;
- excluded impairment-related work expenses (IRWE) from income in determining initial eligibility and reeligibility for both federal SSI benefits and state supplementary payments, effective March 5, 1991;
- required the Secretary of Health and Human Services to make reasonable efforts to ensure that a qualified pediatrician or other specialist in an appropriate field of medicine evaluates a child's disability for purposes of determining his/her eligibility for SSI benefits;
- authorized reimbursement for individuals who are not presently receiving federal SSI benefits but are in "special status" under Section 1619(b) (i.e., eligible for Medicaid benefits only), are in suspended benefit status, or are receiving federally-administered state supplementary payments;
- extended the presumptive eligibility time period from 3 to 6 months in the case of disability and blindness claims that can not be settled earlier;
- permitted continuing disability reviews to be conducted no more than once every 12 months; and
- improved the statutory requirements governing the representative payee system. A series of new provisions are added to the Act to address perceived weaknesses in the representative payee system for Social Security and SSI beneficiaries who are unable to handle their own financial affairs. These changes include (a) more explicit provisions for investigating applicants to serve as representative payees; (b) authority for the Secretary to withhold benefits in cases where there is evidence that the representative payee has mishandled or misappropriated the beneficiary's funds; (c) new limitations on the appointment of representative payees; (d) provisions dealing with appeal rights and notices, the selection of high-risk representative payees, fees paid representative payees and the underpayment of benefits; and (e) directions to the Secretary to conduct certain studies and demonstration projects.

NUTRITION

NATIONAL SCHOOL LUNCH ACT

A. Overview

The National School Lunch Act of 1946, as amended, authorizes several cash assistance and commodity donations programs to assist public and private schools, child care centers and other institutions to provide nutritious meals to eligible students. Schools, day care programs, summer camps for children with disabilities, and residential facilities serving children with mental retardation or mental illness are eligible to participate in the various meal programs authorized under the Act.

B. Major Programs Affecting Persons With Disabilities

1. ***School Lunch Program.*** Section 4 of the Act authorizes financial assistance and food donations to participating public and private schools and child care facilities, as well as residential child care institutions (including schools or institutions for children with disabilities) to help them furnish lunches to eligible children which meet nutritional requirements prescribed by the Department of Agriculture.

Participating schools are reimbursed at prescribed rates, which are adjusted on a semi-annual basis to reflect changes in the Consumer Price Index. Schools must agree to supply free and reduced price lunches to eligible children in order to participate. Eligibility is based on the family's income and the number of participating children. FY 1991 appropriations: $3.443 billion.

References: National School Lunch Act of 1946, as amended, P.L. 90-302, P.L. 91-248, P.L. 92-153, P.L. 92-433, P.L. 93-150, P.L. 93-326, P.L. 94-105, P.L. 95-166, P.L. 95-627, P.L. 99-591, P.L. 100-71, P.L. 101-147 and P.L. 101-624, 42 U.S.C. 1751 et. seq. C.F.D.A.: 10.555.

2. ***Commodity Distribution Program.*** Section 6 of the Act authorizes the donation of food to qualified households, individuals, child feeding programs, schools, charitable institutions, nutrition programs for persons who are elderly, and nonprofit summer camps for children. Formula grants are awarded to state agencies that administer the distribution program. Commodities are purchased by the federal government under agriculture surplus removal or price support programs and then made available to the states for distribution. In FY 1990, the value of food donated under this program was $104.6 million.

References: National School Lunch Act of 1946, as amended P.L. 91-248, P.L. 92-153, P.L. 92-433, P.L. 93-150, P.L. 93-288, P.L. 93-326, P.L. 94-105, P.L. 95-166, P.L. 95-627, P.L. 99-591, P.L. 100-71, P.L. 100-435, P.L. 101-147 and P.L. 101-524. 7 U.S.C. 612c and 42 U.S.C. 1755, 1758, 1761, 1762a and 1766. C.F.D.A.: 10.550.

3. ***Summer Food Service Program.*** Section 13 of the Act authorizes formula grants to the states for the initiation, maintenance and expansion of nonprofit food service programs for children in institutions and summer camps (including schools and institutions for persons with disabilities) during the summer months. Program funds are earned by states and institutions on a per meal basis adjusted annually according to the Consumer Price Index. Meals must meet minimum nutritional requirements established by the Department of Agriculture. Funds also are made available for certain state administrative expenses. FY 1991 appropriations: $179.0 million.

References: National School Lunch Act of 1947, as amended. P.L. 90-302, P.L. 94-105, P.L. 95-162, P.L. 95-627, P.L. 96-499, P.L. 97-35, P.L. 97-370 and P.L. 101-147. 42 U.S.C. 1758, 1761 and 1762a. C.F.D.A.: 10.559.

4. ***Child and Adult Care Food Program.*** Section 17 of the Act provides grants-in-aid to the states for the establishment and operation of nonprofit food service programs for children age twelve and under (except there is no age restriction for children with disabilities in nonresidential day care facilities). States disburse such funds to eligible public and nonprofit private organizations, including day care centers, recreation centers, family and group day care programs, Head Start centers, and other institutions providing day care services for children and adults with disabilities. Disbursements are made on the basis of the number of lunches, suppers, breakfasts and snacks served to eligible children and adults, using federally-established reimbursement rates; however, no single program can provide more than two meals and one snack per day. Meals must meet minimum nutritional requirements set by the Agriculture Department. FY 1991 appropriations: $1.024 billion.

References: National School Lunch Act of 1946, as amended, P.L. 90-302, P.L. 94-105, P.L. 95-166, P.L. 627, P.L. 97-35, P.L. 99-591 and P.L. 101-147. 42 U.S.C. 1758, 1759a, 1762a, 1755 and 1766. C.F.D.A.: 10.558.

C. Legislative History

Prior to the enactment of the National School Lunch Act, some schools received federal loans and agricultural surpluses for their lunch programs. In 1935, the U.S. Department of Agriculture initiated a direct purchase and distribution program, under which donated farm surpluses were distributed to schools in an effort to dispose of such commodities and aid schools in providing nutritious, low-cost meals to their students. In 1946, the School Lunch Program was permanently authorized under the National School Lunch Act

(P.L. 79–396). The Act established a grant program to enable states to assist nonprofit school lunch programs in public and private schools. Payments to the states were to be made on a matching basis, according to a formula that took into account the degree of need in each state. In addition, the Agriculture Department was authorized to continue providing federally donated food commodities to supplement cash assistance.

In 1962, amendments to the Act (P.L. 87–823) changed the formula for allocating federal funds, in order to account for differing rates of participation in the program and need for assistance. The 1962 amendments also authorized a special assistance program to aid schools in providing free and reduced-price lunches to needy children.

The Child Care Food program was established in 1968 (P.L. 90–302). It was the year-round component of the Special Food Service Program for Children, a three-year pilot program that included both the Child Care Food Program and the forerunner to the Summer Food Service Program. The child care component was aimed at providing federal assistance for meals served in institutions providing nonresidential day care for children. The facilities eligible to participate included day care centers, settlement houses, recreation centers and institutions providing day care for youngsters with disabilities.

The 1975 amendments to the Act (P.L. 94–105) streamlined and improved existing federal programs by expanding eligibility for reduced-cost meals, the summer feeding and school breakfast programs and child nutrition benefits to children in residential institutions. The definition of a "school" under the National School Lunch Act and Child Nutrition Act Amendments of 1966 was broadened to include "any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)..." This amendment made public and nonprofit residential institutions serving individuals with mental retardation eligible for assistance under the School Lunch and School Breakfast programs. Previously, such facilities were only entitled to receive surplus commodities.

In addition, a broader Child Care Food Program was authorized to replace the former Special Food Service Program for Children. Nonresidential child care institutions serving needy youngsters, including facilities "providing day care services for handicapped children," were declared eligible for such aid.

The 1975 amendments also:

- extended the Special Supplemental Food Program for Women, Infants, and Children through September 30, 1977 and expanded program authorizations;

- broadened the Summer Food Program and extended its authorizations through September 30, 1977; and
- increased eligibility for reduced price lunches by raising the family income ceiling to 95 percent of the poverty income guidelines. Previously, maximum family income was fixed at 75 percent of the poverty level.

Under the 1977 amendments to the Act (P.L. 95–166), eligibility for the Summer Food Service program was extended to allow individuals over age 18 to receive benefits if they had mental or physical disabilities and were participating in a public school program established to meet their needs. The Act was amended again in 1978 (P.L. 95–627) to extend eligibility under the Child Care Food program to persons over 18 years of age with mental or physical disabilities who were enrolled in a program serving a majority of persons 18 years of age or under.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35) trimmed outlays under the National School Lunch Act by (a) limiting family income eligibility and requiring, for the first time, documentation of application data; (b) reducing per-meal reimbursements and writing rates directly into the statute; and (c) excluding private schools with "average" tuitions over $1,500 per year from participation in the meal programs. Congress, however, noted in its report on the legislation that it did not intend to exclude from reimbursement certain private schools which "receive funds from public authorities for the cost of educating handicapped and other special needs children."

P.L. 97–35 also limited the Child Care Food Program to children up to age twelve, except children with disabilities for whom no age limit was set. In addition, family and group day care meal reimbursements were lowered by ten percent and the definition of "average tuition" was raised to $2,000 per year.

Public Law 100–435, the "Hunger Prevention Act of 1988", required the Secretary of Agriculture to make available additional types of commodities to improve child nutrition. In 1989, Public Law 101–147 amended and extended programs authorized under the Child Nutrition Act of 1966 and the National School Lunch Act through Fiscal Year 1995.

CHILD NUTRITION ACT

A. Overview

The Child Nutrition Act of 1966, as amended, authorizes federal assistance in the establishment and operation of school meal programs. Programs established under this Act complement the basic nutrition programs authorized under the National School Lunch Act. Residential and daytime schools for children with disabilities and other child care programs are eligible to participate in the School Breakfast, the School Milk, and Nutrition Education and Training programs authorized under the Act.

B. Major Programs Affecting Persons With Disabilities

1. *School Milk Program.* Section 3 of the Act authorizes formula grants to assist states in encouraging the consumption of milk by school-aged children. Reimbursements are made to eligible nonprofit schools and child care institutions. Nonprofit elementary and secondary schools, nursery schools, child care centers, summer camps and similar institutions devoted to the care and training of children are eligible to participate in the program, provided they do not participate in another meal service program authorized under the National School Lunch Act or the Child Nutrition Act. Disbursements are made on the basis of the number of half pints of milk served within limits specified by law and Department of Agriculture regulations. Milk served free to eligible children is reimbursed at cost. FY 1991 appropriations (est.): $23.4 million.

References: Child Nutrition Act of 1966, as amended. P.L. 91-295, P.L. 93-150, P.L. 93-347, P.L. 94-105, P.L. 95-166 and P.L. 97-35. 42 U.S.C. 1772 and 1779. C.F.D.A.: 10.556.

2. *School Breakfast Program.* Section 4 of the Act authorizes formula grants to the states for the purpose of reimbursing participating public and nonprofit private schools, including schools for children with disabilities, for breakfasts served to eligible children; such meals must meet the Department of Agriculture's nutritional requirements. Reimbursement is based on the number of breakfasts served, with rates adjusted annually according to the Consumer Price Index. FY 1991 appropriations: $656.3 million.

References: Child Nutrition Act of 1966, as amended. P.L. 89-642, P.L. 90-302, P.L. 91-248, P.L.-92-32, P.L. 92-433, P.L. 94-105, P.L. 96-499, P.L. 97-35, P.L. 99-591, P.L. 100-435 and P.L. 101-147. 42 U.S.C. 1773. C.F.D.A.: 10.553.

3. *Nutrition Education and Training.* Section 19 of the Act authorizes grants to state educational agencies to stimulate improved nutritional training of educational and food service personnel, training in food service management and the conduct of nutrition education activities in schools and child care institutions. FY 1991 appropriations: $7.5 million.

References: Child Nutrition Act of 1966, as amended. P.L. 95-166 P.L. 97-370, P.L. 99-591 and P.L. 101-147. 42 U.S.C. 1788. C.F.D.A.: 10.564.

4. ***Special Supplemental Food Program for Women, Infants and Children (WIC Program).*** Section 17 of the Child Nutrition Act of 1966 authorizes grants to state health departments or comparable state agencies to make supplemental foods available to low-income pregnant, postpartum and breastfeeding women, infants and children up to age 5. The states administer this program, typically through local public and nonprofit health and welfare agencies, and they are reimbursed fully by the federal government.

Women become eligible for Women, Infants and Children (WIC) vouchers only after a health-care professional certifies that the child has nutritional deficiencies and a state WIC caseworker certifies that they are financially needy. FY 1991 appropriations (est.): $1.794 billion.

References: Child Nutrition Act of 1966, as amended. P.L. 92–433, P.L. 100–435 and P.L. 101–147, 42 U.S.C. 1786 C.F.D.A.: 10.557.

C. Legislative History

The Child Nutrition Act of 1966 (P.L. 89–642) extended the federal government's involvement in furnishing meals to school-aged children by (1) establishing the School Breakfast Program; (2) expanding the Special Milk and Nonfood (equipment) Assistance programs; and (3) providing assistance in feeding preschool youngsters.

As established under the 1962 Act, the School Breakfast Program was limited to schools located in poverty areas, which had a substantial number of children who had to ride long distances to school. In 1971, the Act was amended (P.L. 92–32) to remove the limitation on the types of schools eligible to participate in the program and authorized a federal share of up to 100 percent of the full operating costs of breakfast programs in needy schools. In 1975, amendments to the Act (P.L. 94–105) provided a permanent, open-ended authorization of funds for the School Breakfast program.

The 1975 amendments also extended the definition of "school" under the 1966 Act to include: "any public or licensed nonprofit, private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded)." This change allowed public and nonprofit residential institutions to participate in the School Breakfast, Milk, and Equipment Assistance programs for the first time.

The 1978 amendments to the Act (P.L. 95–627) provided for (a) the expansion of the breakfast program by permitting combined recordkeeping, equipment assistance, and funds for schools in especially needy areas; (b) the authority for children who qualify for free lunches to be eligible for free milk at the option of the school or local educational agency; and (c) a requirement that each state educational agency establish eligibility standards for providing additional assistance to schools in severe need, including those schools required to serve breakfast under state law.

The 1981 Omnibus Budget Reconciliation Act (P.L. 97–35) streamlined program requirements and restricted the availability of federal assistance (see discussion under the legislative history of the School Lunch Act above). The School Breakfast Program was expanded and improved under the provisions of the "Hunger Prevention Act of 1988" (P.L. 100–435) and the "Child Nutrition and WIC Reauthorization Act of 1989" (P.L. 101–147).

FOOD STAMP ACT

A. Overview

The Food Stamp Act of 1977, as amended, provides direct assistance, in the form of coupons, to individuals and families who otherwise would be unable to purchase adequate quantities of food at local retail stores to meet their minimum nutritional needs. Coupons are used to offset part of the cost of purchasing food and, thus, assist low-income individuals and families to stretch their food budgets. Individuals with disabilities living in households that meet income eligibility criteria are permitted to participate in the Food Stamp Program. In addition, certain persons with disabilities living in community living arrangements, which house 16 or fewer individuals, also are eligible for food stamps under specified circumstances.

B. Major Programs Affecting Persons With Disabilities

Under the Food Stamp Act, eligible households receive a free coupon allotment, the amount of which varies according to household size and net income. The coupons may be used in participating retail stores to buy food. In addition, food coupons may be used by certain persons who are elderly or disabled and their spouses who cannot prepare their own meals to have meals delivered to them in their homes by authorized meal delivery services. Food coupons also may be used to purchase food or meals on behalf of recipients of Social Security Disability Insurance or Supplemental Security Income benefits who are blind or disabled and reside in certain small, community-based group living arrangements, which house no more than 16 persons.

References: Food Stamp Act of 1977, as amended. P.L. 95–113, P.L. 95–348, P.L. 95–458, P.L. 96–58, P.L. 96–304, P.L. 97–18, P.L. 97–35, P.L. 97–98, P.L. 97–103, P.L. 97–235, P.L. 98–204, P.L. 98–369, P.L. 99–198, P.L. 99–260, P.L. 99–425, P.L. 99–498, P.L. 99–500, P.L. 99–509, P.L. 99–570, P.L. 99–603, P.L. 100–77, P.L. 100–175, P.L. 100–232, P.L. 100–24, P.L. 100–383, P.L. 100–387, P.L. 100–435, P.L. 100–503, P.L. 100–702, P.L. 101–201, P.L. 101–202, P.L. 101–220, and P.L. 101–508. 7 U.S.C. 2011, et. sq. C.F.D.A.: 10.551.

C. Legislative History

The first federal Food Stamp Program was established as an experiment in 1939, for the dual purpose of stabilizing food prices by removing surplus agricultural commodities from the market and feeding poor families. The program ended with World War II, but was revived in 1961 by President Kennedy, as a pilot project in a few scattered needy areas of the country. This pilot project was expanded and refined by the passage of the Food Stamp Act of 1964. Amendments to the Act in 1971 changed the basis of the coupon values. In 1973, Congress mandated that all areas of the country offer food stamps and convert from other federal food distribution programs.

The Food Stamp Act of 1977 (P.L. 95-113) was one of the most comprehensive revisions of the program's statutory authority since its inception. P.L. 95-113 authorized the issuance of stamps at no cost to eligible individuals or families, and the establishment of uniform national eligibility standards. The Act also provided for a limited exception to the prohibition against providing food stamps to individuals in institutions who were participating in alcohol or drug abuse treatment programs or residing in federally-subsidized housing for the elderly.

In addition, P.L. 95-113 permitted certain public assistance offices to determine client eligibility for food stamps. Specifically, a single interview could be conducted to determine both eligibility for food stamps and eligibility for Aid to Families with Dependent Children, or households composed entirely of Supplemental Security Income recipients could apply for Food Stamps at Social Security Administration offices and be certified as eligible, based on information in their SSI files.

The 1977 legislation authorized the Agriculture Department to conduct pilot projects, including a test of "cashing-out" food stamps (i.e., paying the value of food stamps in cash rather than in coupons) for households composed entirely of members who were either age 65 or over or SSI recipients. P.L. 95-113 also required the state agency administering the Food Stamp Program to notify SSI recipients about the availability and benefits as well as eligibility requirements.

The Food Stamp Amendments of 1979 (P.L. 96-58) was an emergency measure aimed primarily at increasing the program's statutory spending ceiling and relaxing certain restrictions on shelter and medical expense deductions under the 1977 Act. P.L. 96-58 also for the first time, authorized food stamps for residents of community living arrangements for persons with blindness or disabilities, by redefining "eligible households" to include disabled or blind recipients of benefits under Title II or Title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate state agency or agencies under regulations issued under Section 1616(e) of the Social Security Act, which serves no more than 16 residents.

Each otherwise eligible person with blindness or another disability is to be treated as an individual household for purposes of determining his/her eligibility and monthly coupon allotment. In addition to amending the statutory definition of the term "household," the 1979 amendments also redefine the term "food," to mean meals served in small group living arrangements, and the term "retail food store" to include group living arrangements. This allows some flexibility in the method of administering food stamp benefits.

Prior to the enactment of P.L. 96–58, group homes which provided meals to their residents were considered "institutions" and, therefore, residents were ineligible for food stamps.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35) liberalized medical deductions in determining the eligibility of individuals for food stamps who are elderly or have a disability.

The SSI cashing-out projects were extended through 1985, by the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97–98). The Omnibus Budget Reconciliation Act of 1982 (P.L. 97–253) contained a provision that allowed individuals over age 60 with disabilities who live with others to be considered as separate households under certain circumstances for purposes of food stamp eligibility. P.L. 99–114, the 1985 Amendments to the Food Stamp Act, further extended the elderly/SSI demonstration projects.

The Food Security Act of 1985 (P.L. 99–198) once again extended the "cashing-out" projects. In addition, P.L. 99–198:

- expanded the definition of "disabled" to include SSI recipients and those receiving other government disability benefits;
- extended the joint SSI-food stamps processing provisions to households in which all member are SSI applicants or participants;
- expanded the joint SSI-food stamp processing to include information about the availability of benefits and assistance in applying; and
- required the Departments of HHS and Agriculture to revise their joint processing memorandum of understanding.

P.L. 99–470, the "Omnibus Drug Enforcement Education and Control Act of 1986" amended the Social Security Act to require the Secretaries of the Departments of Health and Human Services and

Agriculture to develop a procedure whereby individuals could apply for the Food Stamp and Supplemental Security Income (SSI) benefits on a single application prior to their release from a public institution.

The "Hunger Prevention Act of 1988" (P.L. 100–435) made available additional types of commodities to improve food stamp programs. It also amended the Act to reduce barriers to participation by individuals who are elderly and disabled.

RIGHTS

AMERICANS WITH DISABILITIES ACT

A. Overview

Throughout the 1970s and 1980s, Congress enacted numerous bills aimed at protecting individuals with disabilities against discrimination and other forms of unjust treatment. Among the types of statutory safeguards extended to individuals with disabilities were (a) protection against discrimination in federally assisted and federally conducted programs; (b) accessibility to facilities and programs supported or operated by the federal government; (c) the right to a free, appropriate education; (d) an entitlement to constitutional rights to protection from harm in institutions; (e) access to protection and advocacy services for individuals who are developmentally disabled, chronic mental illness or have other severe disabling conditions; and, (f) the right of infants born with disabilities to medically indicated treatment."

Finally, after nearly two decades of legislative activities, in 1990 Congress approved the Americans with Disabilities Act (P.L. 101–336), a sweeping affirmation of the rights of citizens with disabilities. As President George Bush said in signing this legislation into law, it represents "...the first comprehensive act of equality for persons with disabilities in the world" and "...brings us closer to the day when no American will be denied their right to life, liberty and the pursuit of happiness."

B. Major Legislation Affecting Persons with Disabilities

This landmark legislation is divided into five titles, following an introductory section that spells out the findings and purposes of the legislation and defines a number of key terms that are used throughout the ADA. Title I of the Act prohibits discriminatory employment practices, while Title II deals with discrimination in public services. Parallel provisions governing the denial of rights and privileges to persons with disabilities in privately operated settings that are open to the public are contained in Title III of the Act. Title IV of the ADA requires telephone companies to install telecommunication relay services for persons with speech and hearing impairments. Finally, Title V includes a number of miscellaneous provisions.

The Act has the following basic purposes:

- "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- ...to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- ...to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and
- ...to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities."

The term "disability" is defined in Section 3 of the Act as:

- "(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment."

1. *Employment.* The Act specifies that no covered entity shall discriminate against a qualified person with a disability, based on his/her disability, in regard to application procedures, hiring, advancement, discharge, employee compensation, job training, or other terms, conditions and privileges of employment. The provisions of Title I become effective 24 months following the date of enactment (July 26, 1992). During the initial two years following the effective date of Title I, only employers with 25 or more employees are covered by the provisions of the Act. Thereafter, employers with 15 or more employees are covered.

Discrimination in employment is interpreted to include:

- limiting, segregating, or classifying a job applicant or employee in a way that adversely effects his or her opportunities or status;
- participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination;
- using standards, criteria or methods of administration that have a discriminatory effect or perpetuate discrimination of other individuals who are subject to common administrative controls;
- excluding or denying equal opportunities to a qualified non-disabled individual because of his/her relationship to a person with a disability;

- failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless such entity can demonstrate that the accommodation would impose an undue hardship on its business;
- denying employment opportunities to a qualified individual because he/she needs a reasonable accommodation;
- imposing or applying tests and other selection criteria that screen out (or tend to screen out) individuals with disabilities, unless such tests or other selection criteria can be shown to be job-related and consistent with business necessity; and
- failing to select and administer employment-related tests in a manner sensitive to the needs of people with disabilities.

For purposes of applying the prohibition against discriminatory practices, the term "qualified individual with a disability" is defined as:

> "...an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position...."

Consideration is to be given to the employer's judgement regarding the essential functions of a particular job.

The Act also defines the terms "reasonable accommodation" and "undue hardship". A "reasonable accommodation" may include (a) making existing facilities "...readily accessible to and useable by individuals with disabilities"; and (b) restructuring a job; modifying work schedules; reassigning persons to vacant positions; acquiring or modifying equipment/devices; modifying examinations, training materials and policies; the provision of qualified readers/interpreters and similar changes. An "undue hardship" is "an action requiring significant difficulty or expense when considering..." such factors as (a) the nature and cost of the proposed accommodation; (b) the overall financial resources of the facility(ies) and the number of people with disabilities who would be affected; (c) the overall financial resources of the covered entity; and (d) the type of operations of the covered entity.

Current users of illegal drugs are not considered to be "qualified individuals with disabilities" and, thus, are not subject to the protections of the Act. Individuals who are enrolled in drug rehabilitation programs and not currently using illegal medications, however, are protected.

The Equal Employment Opportunities (EEOC) Commission is directed to promulgate regulations implementing Title I of the Act within one year of the date of enactment. [N.B., Final implementing regulations were published by EEOC on July 26, 1991.]

2. *Public Services.* Unlike Section 504 of the Rehabilitation Act (see description below), Title II of the ADA makes all activities of state and local agencies (i.e., not just federally funded activities) subject to the protections of the Act.

All newly purchased fixed route buses of all sizes as well as rail and other fixed route vehicles must be readily accessible to and useable by individuals with disabilities. This provision applies to all solicitations to purchase such vehicles issued 30 days or more after the enactment date of the ADA. No retrofitting of existing vehicles is required, however.

Communities with fixed route transportation systems also must operate a paratransit system to serve individuals with disabilities who are unable to use fixed route transportation. However, in establishing and maintaining such paratransit systems, communities generally are not required to make expenditures that would impose an undue financial burden.

Thirty days after the effective date of the Act (i.e., January 26, 1992), all new buses and other vehicles purchased by communities that operate demand-responsive transit systems which provide transportation services to the general public must be readily accessible to and useable by persons with disabilities, unless the system can demonstrate that, when viewed in its entirety, it provides an equivalent level of services to individuals with disabilities as it does to other members of the general public.

All newly constructed/manufactured facilities used to provide public transportation services must be accessible (rail and bus stations; airports, etc.). In addition, when alterations are made to existing facilities that affect the useability of the facility, such alterations, including the path of travel to the altered facilities as well as the bathrooms, telephones, and drinking fountains serving the remodeled area, must be accessible. The obligation to make the path of travel accessible, however, applies only when the covered entity undertakes major structural modifications.

All stations in intercity rail systems must be accessible to persons with disabilities within twenty years of the date of enactment and key stations in rapid rail, commuter rail and light rail systems must be made readily accessible as soon as practicable but in any event no later than three years after the date of enactment; however, the Secretary of Transportation is authorized to extend the deadline for achieving full accessibility in instances where extraordinarily expensive structural changes or replacement of existing facilities are necessary.

Intercity, light rail, rapid and commuter rail systems must have at least one car per train accessible to persons with disabilities as soon as possible but in any event within five years.

The Attorney General is responsible for promulgating rules to implement Title II within one year of the enactment date of the legislation. In addition, the Secretary of Transportation is directed to issue regulatory standards that are consistent with the minimum accessibility guidelines/requirements published by the Architectural and Transportation Barriers Compliance Board. The latter rules also are to be issued within one year of the enactment date. [N.B., Both set of rules were issued in final form on September 6, 1991.]

For purposes of Title II of the Act, the term "qualified individual with a disability" means:

> "...an individual with a disability who, with or without reasonable modifications to rules, policies, practices, the removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."

The provisions of Title II become effective 18 months after the date of enactment, except for the provision governing the purchase of new buses which takes effect immediately.

3. *Public Accommodations and Services Operated by Private Entities.* Title III of the Act states that:

> "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

The term "public accommodation" is broadly defined to include (a) an inn, hotel, motel or other place of lodging (unless it has five or fewer rooms for rent and is occupied by the proprietor); (b) a restaurant, bar or other establishment serving food or drink; (c) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; (d) an auditorium, convention center, lecture hall, or other place of public gathering; (e) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or retail establishment; (f) a laundromat, dry cleaner, bank, barbershop, travel service, funeral parlor, gas station, office of an accountant, lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment; (g) a terminal, depot, or other station used for specified transportation; (h) a museum, library, gallery, or other place of public display or collection; (i) a park, zoo, amusement park or other place of recreation; (j) a nursery, elementary, secondary, undergraduate or postgraduate private school or other place of education; (k) a day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment; and (l) a gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.

The Act contains general and specific categories of prohibited discrimination. Among the general categories of discrimination specified in the legislation are:

- denying individuals the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations furnished by a covered entity;
- affording persons with disabilities an opportunity that is not equal to that afforded to citizens without a disability;
- providing an opportunity that is less effective than that provided to other citizens; and
- providing an opportunity that is different or separate, unless such action is necessary to furnish the affected individual with an opportunity that is as effective as that provided to other (non-disabled) citizens.

Other categories of discrimination mentioned in Title III of the ADA are:

- denial of participation;
- participation in an unequal program or benefit;
- provision of a separate benefit or program;
- failure to provide goods, services or accommodations "...in the most integrated setting appropriate to the needs of the individual";
- denial of the opportunity to participate in programs and activities that are not separate and different;
- the use of administrative methods that have the effect of discriminating on the basis of disability or perpetuating discrimination of others who are subject to common administrative control; and
- discriminating against an individual on the basis of his/her association with a person with a disability.

Among the specific acts of discrimination that are prohibited under the Act are:

- the use of eligibility criteria that tend to screen out persons with disabilities;

- failure to make reasonable modifications in policies, practices or procedures when such changes would result in appropriate accommodations for persons with disabilities, unless it can be demonstrated that such modifications would "...fundamentally alter the nature" of the goods, services or facilities being provided;
- failure to provide auxiliary aids that are necessary to allow persons with disabilities to take advantage of the particular goods, services or facilities unless the provision of such aids would constitute an undue burden;
- failure to remove architectural, communications and transportation barriers where such removal is "readily achievable"; and
- failure to make goods, services or facilities available through alternative methods in cases where the removal of architectural, communications or transportation barriers are not readily achievable, provided such alternative methods are readily achievable.

Title III also contains specific provisions governing the accessibility of privately operated transportation services that parallel the provisions affecting public transit systems included in Title II of the legislation. Newly constructed places of public accommodation and commercial facilities which are opened 30 months or more after the enactment date of the ADA must be accessible to people with disabilities, unless the affected entity can demonstrate that such action would be "structurally impractical".

The provisions of Title III do not apply to "... individuals who pose a direct threat to the health and safety of others". The term "readily achievable" is defined as "...easily accomplishable and able to be carried out without much difficulty or expense".

The Secretary of Transportation is directed to issue regulations governing the operation of private transit services within one year of the enactment date of the legislation. By this same date, the Attorney General is responsible for publishing regulations governing the remainder of Title III. [N.B., These regulations were promulgated in final form on September 6, 1991.]

Title III becomes effective 18 months after the date of enactment (i.e., January 26, 1992).

4. *Telecommunications.* Under Title IV of the bill, telephone companies that offer services to the general public also must provide interstate and intrastate telecommunication relay services for persons who are deaf, hearing and speech impaired, unless such services are furnished as part of a statewide relay program. The Federal Communications Commission is responsible for issuing implementing regulations within one year of the date of enactment. [N.B., These regulations were issued in final form on August 2, 1991.]

Title IV of the Act also provides that all television public service announcements that are produced or funded by an agency of the federal government must include closed captioning for persons who are deaf or hearing impaired.

5. Miscellaneous Provisions. Title V of the Act specifies that the ADA shall not be construed to reduce the scope of coverage or standards applicable to federal agencies and recipients of federal assistance under Title V of the Rehabilitation Act of 1973, as amended. In addition, nothing in the Act shall be construed to invalidate or limit the rights, remedies or procedures available to individuals with disabilities under other federal, state or local laws.

Title V also (a) makes the provisions of the Act fully applicable to state governments by waiving immunity under the Eleventh Amendment to the U.S. Constitution; (b) prohibits acts of retaliation or coercion against persons with disabilities (or individuals who aid them) who exercise rights granted under the Act; (c) authorizes the Architectural and Transportation Barriers Compliance Board to issue minimum accessibility guidelines; (d) allows the prevailing party in any litigation under the Act to recover reasonable attorney's fees; (e) directs the Attorney General to develop and issue a plan to assist all covered entities to fulfill their responsibilities under the Act and authorizes all responsible federal agencies to furnish technical assistance on those aspects of the Act for which they are responsible; (f) directs the National Council on Disability to conduct a study of the effects designation and land management practices have on the ability of persons with disabilities to enjoy national wilderness areas; and (g) spells out the policies and procedures to be used in enforcing the rights and privileges of employees of the House of Representatives, the Senate and other agencies of the Legislative Branch.

References: Americans with Disabilities Act. 42 U.S.C. 12101, et. seq. C.F.D.A.: N/A.

FAIR HOUSING ACT

In 1988, Congress enacted amendments to the Fair Housing Act of 1968 (Title VIII of the Civil Rights Act) which extended the protections afforded by the legislation to individuals with disabilities (P.L. 100–430). Prior to the passage of these far-reaching amendments, the Act only applied to discrimation in the sale or rental of housing based on race, color, religion, sex and national origin.

The passage of P.L. 100–430 served as a precursor to the enactment of the Americans with Disabilities Act in 1990. In both cases, the fundamental thrust of the legislation was to extend the principle of non-discrimation against individuals with disabilities from federally funded programs and activities only to virtually all segments of the national economy—both publicly and privately financed.

The "Fair Housing Act Amendments of 1988" added to Title VIII of the Civil Rights Act language barring discrimination against persons with handicaps in the sale or rental of housing. The term "handicap" is defined in the legislation to mean "a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment". Individuals currently using addictive drugs are specifically excluded from this statutory definition.

Discrimination under the terms of P.L. 100–430 includes:

- the refusal to permit a person with disabilities, at his/her own expense, to make reasonable modifications in the premises that are deemed to be necessary to allow the individual to realize the "full enjoyment of the premises";
- the refusal to make reasonable accommodations in rules, policies, practices and services in order to afford people with disabilities an equal opportunity to use and enjoy the dwelling; and
- failure to design and construct dwellings so that (a) public and common use areas are readily accessible to and useable by people with disabilities; (b) doors are sufficiently wide to allow passage by individuals in wheelchairs; and (c) all premises within such dwellings contain the following features:
- an accessible route into and through the dwelling;
- light switches, electrical outlets, thermostats and other environmental controls that are in accessible locations;
- bathroom walls that are reinforced to permit the installation of grab bars; and
- kitchens and bathrooms that are useable by people in wheelchairs.

The latter provisions on accessibility apply only to buildings with four or more dwelling units (either on the ground floor or on all floors if the building has elevators) and became effective 30 months after the enactment of the Fair Housing Amendments Act of 1988 (i.e., April 13, 1991). Compliance with the appropriate requirements of the American National Standards (ANSI A117), governing the accessibility and useability of buildings by people with disabilities, is deemed to satisfy the above requirements.

Landlords are permitted to exclude tenants with disabilities who "...constitute a direct threat to the health or safety of other individuals". This controversial provision was included in the legislation to satisfy the concerns of persons who were fearful that apartment owners would be forced to rent to psychopaths and other individuals who posed a danger to their fellow tenants and other residents of the neighborhood.

The disability provisions of P.L. 100–430 do not supersede state laws or local ordinances that afford persons with disabilities greater protections against housing discrimination.

The provisions of the Fair Housing Act, as revised by P.L. 100–430, are intended to apply not only to discriminatory practices used by landlords to deny housing to people with disabilities but also to state or local land use and safety laws, regulations and practices that have the same effect. The reports of the House and Senate Judiciary Committees that developed the 1988 amendments to the Act contain very explicit language on how Congress expects the revised provisions of the Fair Housing Act to be interpreted and enforced. For example, the report of the House Judiciary Committee specifies, in no uncertain terms, that it expects the law to be used to prevent the use of discriminatory local zoning ordinances to deny housing to persons with mental and developmental disabilities.

P.L. 100–430 also creates a new administrative mechanism to enforce the requirements of the Act. The aim of this revised enforcement procedure is to offer the federal government a more practical means of interceding to preclude the use of discriminatory housing practices. Under prior law, the only recourse available to the aggrieved party was to file a private lawsuit—an option that was impractical for many individuals and families with low and moderate incomes. The U.S. Attorney General was authorized to intervene only when there was evidence of a clear "pattern or practice" of housing discrimation.

Under the new administrative procedure established by P.L. 100–430, officials of the U.S. Department of Housing and Urban Development are given 100 days in which to seek resolution of a fair housing complaint before the enforcement procedures go into effect. If the dispute is not settled during this period, the Department is authorized to issue a "charge" of discrimination, based on its own investigation. At this point, the aggrieved party, HUD or the alleged violator is given 20 days in which to choose one of two forums for resolving the dispute: a newly established network of administrative law judges within HUD or via a trial in federal court. If any party chooses a federal trial, that choice prevails.

If a court trial is selected, the Department of Justice represents the individual claiming discrimination. The dispute is subject to all of the remedies normally available to a federal court, including fines, injunctions and punitive damages.

ALJ decisions are subject to review by the Secretary of HUD, who can overturn such decisions. Subsequent to the Secretary's review, either party to the dispute is authorized to file an appeal in a federal appeals court. The Secretary's refusal to review an ALJ decision does not affect the right of either party to seek an appeals court decision.

References: Civil Rights Act of 1964, as amended by the Fair Housing Act Amendments of 1988, P.L. 100–430, 42 U.S.C. 3601, et. seq. C.F.D.A.: N/A.

REHABILITATION ACT OF 1973

Title V of the Rehabilitation Act of 1973, as amended, contains a number of provisions designed to safeguard the rights of people with disabilities. Section 504 of the Act affords individuals with disabilities protection against discrimination in all federally-assisted programs and activities. The Act states that:

> "No otherwise qualified handicapped individual in the United States, as defined in Section 7(7), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

Section 7(7) defines the term "handicapped individual" to mean "any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment." Federal agencies are required to promulgate regulations to carry out their activities in a non-discriminatory manner.

Initially, the statutory definition of a "handicapped individual" for employment purposes did not include drug abusers, except under limited circumstances. However, Section 504 was amended by the Americans with Disabilities Act to extend coverage to individuals who have either successfully completed or are currently engaged in a drug abuse rehabilitation program and we are no longer using such drugs. The Secretary of Labor is responsible for promulgating regulations and enforcing the provisions of Section 503.

Sections 501 and 503 of the Act protect handicapped persons from employment discrimination by federal agencies or federal contractors. Each federal agency is required under Section 501 to develop an affirmative action plan for hiring, placing, and advancing individuals with handicaps within the agency. An Interagency Committee on Handicapped Employees also is established under Section 501 to monitor implementation of this requirement.

Under Section 503 of the Act, any contractor entering into a contractual agreement in excess of $2,500 with any federal department or agency for the procurement of personal property or a non-personal service is required to take affirmative action to employ and advance in employment people with disabilities.

Part D of Title VII of the Rehabilitation Act of 1973, as amended, authorizes grants to states to establish systems, independent of service delivery agencies, for the protection and advocacy of the individual rights of handicapped persons. Such systems may pursue legal, administrative and other appropriate remedies in cases where the rights of a person with disabilities are being violated. This section of the Act was funded for the first time in FY 1991.

Finally, the Rehabilitation Act, as amended in 1986, includes a provision specifying that states will not be considered immune due to the provisions of the Eleventh Amendment of the U.S. Constitution if they violate Section 504 of the Rehabilitation Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, or the provisions of any other federal statute prohibiting discrimination by recipients of federal financial assistance.

The addition of the above anti-discrimination provisions to the Rehabilitation Act of 1973 represented a major new thrust in federal policy. In effect, the 1973 legislation (which was revised and clarified by amendments that were adopted in 1974) was a broad affirmation by Congress that people with disabilities should be afforded the same legal safeguards that had been extended to other vulnerable groups in American society many years earlier. Indeed, the statutory provisions of Title V of the Act were patterned closely after the language of the Civil Rights Act of 1964, which had established similar statutory rights for racial, religious and ethnic minorities.

In 1988, Section 504 of the Rehabilitation Act was amended (along with a variety of other federal civil rights laws) to make it clear that the phrase "program or activity" was intended to apply to the entire institution in which any of its component parts is the recipient of federal assistance. The purpose of this statutory change was to reverse a 1984 ruling by the U.S. Supreme Court in the case of Grove City College v. Bell. In this case, the high court found that the particular "program or activity" receiving federal aid, not the entire institution of which it is a part, is required to comply with federal anti-discrimination laws. Under the provisions of the "Civil Rights Restoration Act of 1987" (P.L. 100–259), the entire college, university or public agency, for example, is barred from engaging in discriminatory practices if any of its departments or units receive federal funds. This same interpretation applies to private corporations, organizations and small businesses that are recipients of federal assistance.

References: Title V, Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 95-602 and P.L. 99-506. 29 U.S.C. 701. C.F.D.A.: N/A.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Individuals with Disabilities Education Act (formerly known as the Education of the Handicapped Act) expresses the intent of Congress that all children with disabilities be granted the right to a free appropriate public education. Section 601(c) of the Act states:

> "It is the purpose of this Act to assure that all children with disabilities have available to them, within the time periods specified in Section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist states and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities."

In order to qualify for formula grant funding under Part B of the Individuals with Disabilities Education Act, a state must assure the Secretary of Education that, among other things (1) it has a policy which assures all children with disabilities the right to a free appropriate public education; and (2) it has established procedural safeguards, procedures for integrating children with disabilities into regular classrooms to the maximum extent appropriate; and (3) procedures for non-discriminatory (racially and culturally) testing and evaluation policies.

The Act also contains administrative requirements governing the resolution of disputes between school systems and parents concerning the most appropriate education program for a particular child, and it explicitly authorizes courts to allow parents to recover attorneys' fees when they prevail in court cases filed under the Act or under other anti-discrimination statutes (such as Section 504 of the Rehabilitation Act).

The right to a free appropriate public education for children with disabilities was initially included in federal law under the "Education of All Handicapped Children's Act of 1975" (P.L. 94-142).

References: Individuals with Disabilities Education Act, as amended. P.L. 94-142, P.L. 98-199, P.L. 99-372, P.L. 99-457, P.L. 101-476 and P.L. 102-119. U.S. Code: 20 U.S.C. 1400. C.F.D.A.: 84.027.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

Section 110 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended, sets forth the following Congressional findings respecting the rights of people with developmental disabilities:

> (1) that people with developmental disabilities have a right to appropriate treatment, services, and habilitation, in the setting least restrictive of the person's personal liberty and which are designed to maximize the individual's developmental potential;
>
> (2) that the federal government and the states both have an obligation to assure that public funds are not provided to any institutional or other residential program which (a) does not provide treatment, services and habilitation appropriate to the needs of the people with developmental disabilities they serve; or (b) fails to meet the following minimum standards:
>
> - provision of a nourishing, well-balanced daily diet;
> - provision of appropriate and sufficient medical and dental services;
> - maintenance and enforcement of policies prohibiting the use of physical restraint, unless absolutely necessary, and not as a form of punishment;
> - maintenance and enforcement of a policy prohibiting the excessive use of chemical restraints;
> - policies granting permission for close relatives to visit residents at reasonable hours without prior notice; and
> - compliance with adequate fire and safety standards.

In addition to the general and specific rights outlined above, Section 110 expresses the intent of Congress that all residential and non-residential programs serving individuals with developmental disabilities provide appropriate care and services and comply with all relevant standards. In particular, residential facilities furnishing comprehensive health-related, habilitative or rehabilitative services, should meet standards "at least equivalent" to federal Medicaid standards governing intermediate care facilities for the mentally retarded.

Part C of the Act authorizes formula grants to states for the establishment of systems to protect the rights of individuals with developmental disabilities. The basic mission of a state protection and advocacy system is to pursue legal, administrative and other appropriate remedies to ensure that persons with developmental disabilities receive proper care and treatment. A state must grant representatives of protection and advocacy systems access to the records of residents of facilities serving people with developmental disabilities. In addition, the P and A system has authority to investigate incidents of alleged abuse and neglect involving people with developmental disabilities if there is reason to believe such incidents have occurred.

The protection and advocacy agency must be an autonomous unit, independent of any agency that provides services to persons with developmental disabilities, including the state's developmental disabilities council. Each protection and advocacy agency is responsible for reporting on its activities to the Secretary of Health and Human Services. The minimum allotment for a state P and A system was $200,000 as of 1991. FY 1991 appropriations: $21.0 million.

The original statutory authority for state protection and advocacy systems serving individuals with developmental disabilities was enacted in 1975, as part of P.L. 94–103. This authority was modified and expanded as part of subsequent amendments to the Developmental Disabilities Assistance and Bill of Rights Act (see discussion of the legislative history of this Act under the "Social Services" section of this report).

References: Developmental Disabilities Assistance and Bill of Rights Act, P.L. 88–164, P.L. 91–517, as amended by P.L. 94–103, P.L. 95–602, P.L. 97–35, P.L. 98–527 and P.L. 100–146. 42 U.S.C. 6041 et. seq. C.F.D.A.: 93.630.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS

The Protection and Advocacy for Mentally Ill Individuals Act of 1986 (P.L. 99–139) is a separate authority that establishes a formula grant program for statewide mental health advocacy services, either operated directly by or contracted through the existing developmental disabilities protection and advocacy systems. The mental health protection and advocacy system in a state protects and advocates for the rights of persons with mental illness and investigates incidences of abuse and neglect involving mentally ill individuals if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

Each mental health protection and advocacy agency is required to submit an annual report on its activities to the Secretary of Health and Human Services. The Protection and Advocacy for Mentally Ill Individuals Act includes a bill of rights for mental health patients. The PAMII Act was reauthorized in 1991, extending the program's authorization through September 30, 1995 (P.L. 102–173). FY 1991 appropriations: $16.0 million.

References: Protection and Advocacy for Mentally Ill Individuals Act of 1986, P.L. 99-139, P.L. 102-173. 42 U.S.C. 10801. C.F.D.A.: 93.138.

ARCHITECTURAL BARRIERS REMOVAL

Congress, in 1968, passed the Architectural Barriers Act (P.L. 90-480), requiring most buildings and facilities designed, constructed or altered with federal funds after 1969 to be accessible to people with physical disabilities. The General Services Administration issued minimum accessibility guidelines in September, 1969.

In 1970, the Act was amended (P.L. 91-205) to include a requirement that facilities constructed as part of the Washington, D.C. metropolitan subway system be accessible to persons with disabilities.

Under Title II of the Public Building Cooperative Use Act of 1976 (P.L. 94-541) the Architectural Barriers Act was amended to impose a clear statutory mandate that public buildings be accessible to people with physical disabilities. Coverage of the Act also was extended to government-leased buildings intended for public use or in which individuals with physical handicaps might be employed, including buildings leased for public housing or for use by the U.S. Postal Service.

In addition, the 1976 legislation required designated agencies (HHS, GSA, DOD and HUD) to establish a system of continuous surveys in order to ensure compliance with the Architectural Barriers Act. The Administrator of the General Services Administration was directed to report annually to Congress on the status of activities related to the Architectural Barriers Act.

Section 502 of the Rehabilitation Act of 1973 (P.L. 93-112) established the Architectural and Transportation Barriers Compliance Board to (1) ensure compliance with the standards issued under the Architectural Barriers Act of 1968; (2) investigate and examine alternative approaches to the architectural, transportation, communication and attitudinal barriers confronting individuals with disabilities; and (3) determine the adequacy of measures being taken by federal, state and local governments, and other public or non-profit agencies to eliminate such barriers.

Originally, the Board was composed of the heads or representatives from the following federal departments and agencies: Health, Education, and Welfare; Transportation; Housing and Urban Development; Labor; Interior; General Services Administration; Veterans' Administration; Defense; and United States Postal Service. The 1978 amendments to the Rehabilitation Act (P.L. 95-602) added eleven public members, appointed by the President, and one more federal agency (Justice). P.L. 95-602 also expanded A&TBCB's enforcement authority by granting it power to (1) bring civil actions in any appropriate U.S. district court to enforce any final order of the Board; and (2) intervene, appear and participate (either directly or as amicus curiae) in any U.S. or state court in civil actions related to the Board's activities or the Architectural Barriers Act of 1968.

Congress also required the A&TBCB to determine the costs to state and local governments of affording people with disabilities full access to all programs and activities receiving federal assistance (i.e., the cost of complying with Section 504, non-discrimination regulations). [N.B., This cost study was never conducted because the Board lacked the resources.] Finally, the Board was authorized to set minimum guidelines governing the 1968 Act and to provide technical assistance to agencies and individuals affected by regulations mandating the removal of architectural, transportation, and communications barriers.

The Americans with Disabilities Act assigned the A&TBCB expanded responsibility for developing minimum accessibility standards for vehicles and public conveyances. These responsibilities are reviewed in the above summary of the ADA.

References: Rehabilitation Act of 1973, as amended, P.L. 93–112 and P.L. 99–506 and the Architectural Barriers Act of 1968, P.L. 90–480, P.L. 94–541 and P.L. 101–336. 29 U.S.C. 792 and 42 U.S.C. 4151 et. seq. C.F.D.A.: 88.001.

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS

In 1980, Congress passed the Civil Rights of Institutionalized Persons Act (P.L. 96–247), granting the U.S. Department of Justice statutory authority to sue states for alleged violations of the rights of institutionalized individuals. The law allows the Department of Justice (DOJ) to file suit against state or local authorities who subject institutionalized persons to "egregious or flagrant conditions... which deprive them of rights, privileges or immunities" protected under the U.S. Constitution. To warrant a DOJ suit, such conditions must exist as a "pattern or practice" within a particular public institution. Institutions covered under this law include prisons, mental hospitals or facilities for persons with mental retardation. The Justice Department may seek equitable relief in terms of the "minimal corrective measures necessary to ensure the full enjoyment of rights" of persons residing in the subject institution. The U.S. Attorney General must furnish prior written notification to the Governor, state attorney general and director of the institution before a suit is filed, and allow reasonable time for corrective actions to be taken. The Attorney General also must submit an annual report to Congress on the number, variety and outcomes of activities pursuant to this Act.

References: Civil Rights of Institutionalized Persons Act, P.L. 96–247, 42 U.S.C. 1997 et. seq. C.F.D.A.: 16.105.

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CHILD ABUSE PREVENTION

In 1984, when Congress passed P.L. 98–457, it extended the provisions of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and included a provision designed to prevent the withholding of medically indicated treatment from infants born with mental or physical impairments. The law required state child protection agencies to establish procedures and/or programs for "...responding to reports that handicapped newborns are being denied medically indicated treatment." Treatment is required unless (a) the infant is chronically and irreversibly comatose; (b) the provision of such treatment would merely prolong the process of dying or not be effective in ameliorating all the infant's life threatening conditions; or, (c) provision of the treatment would be futile in terms of the survival of the infant.

References: Child Abuse Prevention and Treatment Act, as amended. P.L. 93–247 and P.L. 98–457. 42 U.S.C. 5101, et. seq. C.F.D.A.: 93.669.

CIVIL RIGHTS ACT OF 1991

On November 21, 1991, President Bush signed into law amendments to Title VII of the Civil Rights Act of 1964 to reverse nine U.S. Supreme Court decisions that restricted the protections available to covered workers in employment discrimination cases. The "Civil Rights Act of 1991" (P.L. 102–166) also allows, for the first time, victims of harassment and other intentional discriminatory acts based on sex, religion or disability to receive limited monetary damages. Racial minorities already were authorized to receive unlimited money damages under a Reconstruction-era law.

Workers who file cases of intentional bias under Title VII of the 1964 Civil Rights Act, the Americans with Disabilities Act and Title V of the Rehabilitation Act of 1973 are authorized under P.L. 102–166 to recover compensatory and punitive damages in addition to any relief that was previously authorized under Title VII (e.g., recovery of attorneys' fees and back pay). To receive such monetary damages, however, a worker must demonstrate that an employee engaged in a discriminatory practice with malice or reckless indifference to his or her federally protected rights. The maximum compensatory awards authorized under the legislation range from $50,000 to $300,000, depending on the total number of persons employed by the particular business entity. Money damages are not authorized in disability cases involving the provision of a reasonable accommodation in accordance with the Americans with Disabilities Act or the Rehabilitation Act, provided the business or other covered entity can demonstrate that a good faith effort was made to arrange the accommodation.

References: Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. P.L. 102-166. 42 U.S.C. 1981a; 2000e; 1201, et. seq. C.F.D.A.: N/A.

OTHER PROTECTIONS FOR PEOPLE WITH DISABILITIES

The Civil Rights Commission Act Amendments of 1978 (P.L. 95–444) expanded the jurisdiction of the Civil Rights Commission to include protection against discrimination on the basis of handicap. The Act itself did not define the term "handicap", but referred instead to the definition contained in the Rehabilitation Act of 1973, as amended.

The Civil Rights Commission generally carries out factfinding activities, investigates allegations of discrimination and maintains an information clearinghouse. However, it has no direct enforcement authority.

The Legal Services Corporation Act Amendments of 1977 (P.L. 95–222) required the Corporation to establish procedures for determining and implementing service priorities, taking into account the relative needs of clients eligible for assistance, including people with disabilities and other individuals facing special difficulties in accessing legal services. Legal service corporations are local organizations that provide an array of legal counseling and referral services, as well as representation, for individuals financially unable to afford legal assistance. When Congress reauthorized the Legal Services Corporation in 1981, it placed several limitations on the activities of legal services clinics, including a prohibition on entering into any class action suit against federal, state or local governments.

The Civil Service Reform Act of 1978 and subsequent amendments to the Act (P.L. 95–454) mandated sweeping reforms in the employment practices of the federal government. Included in the Act is authority for agency heads to employ personal assistants for employees with disabilities, including individuals who are blind or deaf, when such services are necessary to enable the employee to perform his or her work. Interpreters or reading assistants not assigned by the agency are permitted to receive pay for their services, either from the employee with a disability or from a non-profit organization.

Finally, under the "Telecommunications Accessibility Enhancement Act of 1988" (P.L. 100–542), the Administrator of the federal General Services Administration is to take such actions as are necessary to assure that the federal telecommunication system is fully accessible to hearing and speech impaired individuals. The GSA Administrator also is authorized to promote research and assimilate new technological developments aimed at reducing the cost and improving the capabilities of telecommunication devices and systems that provide accessibility to people with hearing and speech impairments.

In addition, P.L. 100–542 directs both Houses of Congress to obtain a Telecommunication Device for the Deaf (TDD) "as soon as practicable".

SOCIAL SERVICES

CHILD WELFARE SERVICES

A. Overview

Title IV-B of the Social Security Act authorizes grants to the states to expand and improve child welfare services.

Section 425 of the Act defines the term "child welfare services" to mean:

> "public social services which are directed toward the accomplishment of the following purposes (A) protecting and promoting the welfare of all children including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption."

B. Major Programs Affecting Persons with Disabilities

1. ***State Grants for Child Welfare Services.*** Title IV-B authorizes a program of formula grants to designated state agencies for the provision of child welfare services. Each state receives a set amount, plus an allotment based on a variable formula which takes into account its relative population under 21 years of age and per capita income. The matching ratio is 75 federal and 25 state funds. Title IV-B grant funds may be used to cover the cost of (a) personnel to provide protective services to children; (b) licensing of, and standard-setting for, private child care agencies and institutions; and (c) providing homemaker services, return of runaway children as well as prevention and reunification services. However, funds for foster care, day care and adoption assistance are limited under this program.

Each state receives $70,000 for child welfare services. Then, the first $141 million in Title IV-B appropriations is allotted to states based on relative per capita income and the population under 21 years of age. Amounts in excess of $141 million are incentive funds, allocated according to the same formula but only to states satisfying certain statutory requirements. In order to receive the latter funds, a state is required to (a) conduct an inventory of children who have been in foster care for over 6 months; (b) implement a statewide information system on children in foster care; (c) initiate a case review system that includes each child in foster care, including a 6–month review and 18–month dispositional hearing for each child; (d) establish a case review system designed to achieve placement in the least restrictive setting and in close proximity to the child's home and to provide procedural safeguards for children, parents and foster care providers; and (e) implement a services program designed to assist children, where possible, to return to their homes. FY 1991 appropriations (est.): $273 million.

References: Title IV-B, Social Security Act, as amended, P.L. 90–248, P.L. 92–603 and P.L. 96–272. 42 U.S.C. 620 et. seq. C.F.D.A.: 93.645.

2. ***Research and Demonstration Projects***. Title IV-B authorizes financial support for research and demonstration projects in the area of child and family development and welfare. State and local governments, institutions of higher learning and other non-profit agencies or organizations engaged in research or child welfare demonstration activities are eligible for these grants. Grant funds may be used for (a) special research and demonstration projects in the field of child welfare, which are of regional or national significance; (b) special projects to demonstrate new methods that show promise of substantial contribution to the advancement of child welfare; and, (c) projects to demonstrate the use of research in the field of child welfare. Among the types of projects which have been funded under this authority are coordinated approaches between child welfare, developmental disabilities and mental retardation agencies to make maximum use of available state and local resources. FY 1991 appropriations (est.): $7.8 million.

References: Title IV-B, Social Security Act, as amended, P.L. 90–248 and P.L. 96–248, 42 U.S.C. 626. C.F.D.A.: 93.608.

3. ***Child Welfare Services Training Grants***. Title IV-B also authorizes training grants to develop and maintain an adequate supply of qualified, trained personnel to serve children and their families, and to improve educational programs and resources for preparing child welfare personnel. Grants are made to accredited public or other nonprofit institutions of higher learning for special child welfare training projects. FY 1991 appropriations (est.): $3.5 million.

References: Title IV-B, Social Security Act, as amended. P.L. 90–248 and P.L. 92–603. 42 U.S.C. 626 (a)(1)(c). C.F.D.A.: 93.648.

C. Legislative History

Grants for child welfare services have been awarded under the Social Security Act since its inception in 1935. The original Act included provisions to support services for children in predominantly rural areas and other areas of special need. Amendments to the Act in 1972 (P.L. 92–603) authorized a major increase in federal funding, aimed at expanding foster care and preventing the removal of children from their families, thus avoiding the need for foster care. The increased funds also were to be used by the states for adoption services, including activities to increase adoptions of hard-to-place children. The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96–272) revised the allotment base for Title IV-B grants, as well as the specifications necessary to qualify for federal support. The main aim of these amendments was to minimize the need for foster care placements. P.L. 96–272 also added a new Title IV-E to the Act, authorizing federal support for adoption subsidies (see the following section for details on this program).

ADOPTION ASSISTANCE

A. Overview

Title IV-E of the Social Security Act authorizes federal grants to assist states in meeting adoption subsidy costs for children with special needs, including children with disabilities.

B. Major Programs Affecting Persons with Disabilities

Beneficiaries of Title IV-E funds include children who (1) are AFDC, AFDC-FC or SSI recipients or are eligible for any of these three categories of benefits; or (2) have special needs, such as a disability, which make it reasonable to conclude that they cannot be adopted without adoption assistance. Funds are available from the time of final adoption until the child reaches age 18 (or 21 if the state finds that the effects of the disability are such that aid should continue). No means test is applied to adoptive parents, but the amount of aid is negotiated and readjusted periodically, if necessary, by the agency in collaboration with the parents. In 1989, this program assisted over 41,000 children per month. FY 1991 appropriations (est.): $189 million.

References: Adoption Assistance and Child Welfare Act of 1980, P.L. 96–272. 42 U.S.C. 670 et. seq. C.F.D.A.: 93.659.

C. Legislative History

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96–272) established a new Title IV-E of the Social Security Act to assist states in promoting/facilitating the adoption of children with special needs. According to the Act, a child with special needs is one for whom there exists "a specific factor or condition (such as ethnic background, age, membership in a minority or sibling group, or the presence of medical conditions, such as physical, mental or emotional handicaps)..." that make it reasonable to conclude that the child could not be placed in an adoptive family without financial assistance.

Key provisions of the Act included:

- the amount of the adoption assistance payment may not exceed the state foster care payment rate; and
- children receiving federal adoption assistance payments also are eligible for Medicaid benefits.

Effective October 1, 1983, all states were required to continue adoption assistance payments and any additional services covered in a state's adoption assistance agreement, regardless of whether the adoptive parents were, or remained, residents of the state.

SOCIAL SERVICES BLOCK GRANTS

A. Overview

Title XX of the Social Security Act authorizes the Social Services Block Grant program. The aim of this program is to enable participating states to furnish social services best suited to the needs of its residents. Some states use a portion of their Title XX allotments to provide special services to persons with disabilities.

Funds from the Title XX Block Grant program may be used to (1) prevent, reduce or eliminate dependency; (2) achieve or maintain self-sufficiency; (3) prevent neglect, abuse or exploitation of children and adults; (4) prevent or reduce inappropriate institutional care; and (5) secure admission or referral for institutional care when other types of care are not appropriate.

B. Programs Affecting Persons with Disabilities

Federal funds may be used to support a wide range of services including but are not limited to: "child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, employment services, information, referral and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, elderly persons and those with mental retardation, blind, emotional disturbances, physical disabilities, or alcohol or drug dependency."

States are granted broad discretion in determining the social services supportable under their block grant programs, provided such services are directed at the five goals listed above. However, the use of federal funds to support the following activities is prohibited:

- the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or other facility;
- the provision of cash payments for costs of subsistence or the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary shelter provided as a protective service);
- the payment of wages to any individual as a social service (other than payment of wages of welfare recipients employed in the provision of child day care services);
- the provision of medical care (other than family planning services, rehabilitation services or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used;
- social services provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution (except service to an alcoholic or drug dependent individual or rehabilitation services);
- the provision of any education service which the state makes generally available to its residents without cost and without regard to their income;
- any child day care service unless such service meets applicable standards of state and local law; or
- the provision of cash payments as a service.

A state may transfer up to ten percent of its allotment for any fiscal year to other federal block grant programs, including block grants for health services, health promotion and disease prevention activities, or low-income home energy assistance (or any combination of these activities).

Each state determines the services that it will provide under the Title XX block grant program and the individuals that will be eligible to receive such services. State allotments are determined according to specifications set forth in Title XX. There is no matching requirement. Allotments are proportional to the size of the state's population.

All states and territories receive Title XX block grant funds if they submit a pre-expenditure report that meets federal requirements. FY 1991 appropriations (est.): $2.8 billion.

References: Title XX, Social Security Act, as enacted by the Omnibus Budget Reconciliation Act, P.L. 97–35 as amended by P.L. 98–8 and P.L. 98–473. 42 U.S.C. 1397–1397e. C.F.D.A.: 93.667.

C. Legislative History

In 1956, Congress amended the Social Security Act to authorize support for services to federally-assisted welfare recipients, provided such services were furnished by the staff of the designated state welfare agency. The federal matching ratio for such services was set at 50 percent. Prior to the enactment of this authority, federal assistance to needy families and adult recipients under the Act was limited to cash benefits.

The federal matching ratio for social services was increased to 75 percent in 1962. In addition, state welfare agencies were permitted to purchase services from other public agencies on behalf of both current welfare recipients and persons likely to become recipients. The intent of Congress in extending services to potential welfare recipients was to prevent needy individuals and families from becoming dependent on welfare.

In 1967, federal financial participation was expanded to include a wide range of mandatory and optional social services available to needy individuals and families. In addition, for the first time, federal matching was authorized for services purchased by welfare agencies from private vendor agencies.

Due to growing Congressional concern over the rapidly escalating costs of social services to needy persons, in 1972 a rider was added to the General Revenue Sharing Act (P.L. 92–512) which placed a $2.5 billion ceiling on federal social services funding and required the states to expend at least 90 percent of their outlays on applicants for, or recipients of, federally-assisted welfare payments. The following types of services were exempted from the 90 percent requirement: (a) child care services related to employment or training of a family member or the death, incapacity or continued absence of the parent/guardian; (b) services to persons with mental retardation; (c) family planning services; (d) services to drug addicts and alcoholics undergoing treatment; and (e) services to children in foster care.

The Social Services Amendments of 1974 (P.L. 93–647) consolidated social service grants to the states under a new Title XX of the Act. P.L. 93–647 established statutory social services goals, revised eligibility criteria, specified program planning requirements and, generally, clarified procedures governing the expenditure of federal social services funds. The spending ceiling under P.L. 93–647 remained at $2.5 billion.

The Social Services Amendments of 1976 (P.L. 94–401) made the following modifications in Title XX:

- permitted the states to waive individual eligibility determination procedures for certain groups when there was reason to believe that a substantial portion of the group had incomes below 90 percent of the state's median income; and
- temporarily increased authorized Title XX expenditures (the $2.5 billion ceiling) by $200 million annually to support child day care services, and, for this special allotment only, eliminated the state matching requirement.

Subsequent amendments to the Act (P.L. 95–171 and P.L. 95–600) (a) continued the special earmarked funds for child day care services; and (b) temporarily (for FY 1979 only) increased the basic expenditure ceiling to $2.7 billion. In 1980, the statutory authority of the Social Services Block Grant Program was significantly revised. Among the major changes were (1) a phased increase in the program authorization level over a six year period, culminating in a FY 1985 ceiling of $3.3 billion; (2) restrictions on the amount of funds available for Title XX training activities; (3) a multi-year planning authority; and (4) a separate funding authority for Puerto Rico and the territories.

In 1981, as part of the Omnibus Budget Reconciliation Act (P.L. 97–35), the existing program was converted to the Social Services Block Grant Program, with the spending authority reduced by twenty percent below the FY 1981 spending level. Among the significant features of the revised program were:

- states would no longer be required to provide a 25 percent match to qualify for Title XX allotments;
- states would be allowed to transfer up to ten percent of their Title XX dollars to other federal health and energy block grant programs;
- there no longer would be a mandate to designate a state agency to administer the program;

- states would receive no training allotments, or be required to spend any specified percentage of their Title XX allotments on training;
- states would no longer be required to spend 50 percent of their federal Title XX allotment on welfare recipients and persons with incomes below 115 percent of the state's median income; and
- child care programs funded under Title XX would have to meet state and local laws, rather than a long-delayed set of federal standards.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

A. Overview

The Developmental Disabilities Assistance and Bill of Rights Act, as amended, authorizes grant support for planning, coordination, advocacy and training of personnel to work with people who are developmentally disabled. In addition to grants-in-aid to assist states in supporting such planning and coordinating activities, the Act authorizes (a) a formula grant program to support the establishment and operation of state protection and advocacy systems; (b) a project grant program to support university-affiliated programs for persons with developmental disabilities; and (c) national significance grants to support projects aimed at increasing the independence, productivity and community integration of persons with developmental disabilities. Also, the Act mandates the establishment and operation of a federal interagency committee to plan for and coordinate activities related to persons with developmental disabilities.

The term "developmental disability," as defined in the Act, means:

> "a severe, chronic disability of a person 5 years of age or older which (a) is attributable to a mental or physical impairment or combination of mental or physical impairments; (b) is manifested before the person attains age twenty-two; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic sufficiency; and (e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of

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> resulting in developmental disabilities if services are not provided."

All services provided under the Act must be aimed at providing opportunities and assistance for persons with developmental disabilities to enable them to "achieve their maximum potential through increased independence, productivity and integration into the community."

B. Major Programs Affecting Persons with Disabilities

1. ***Basic Grants to States for Planning and Services.*** Formula grants to states are authorized under Part B of the Act. To receive its Part B allotment, a state or territory is required to establish a state Developmental Disabilities Planning Council. This council is responsible for developing and submitting a state plan which identifies existing gaps in services and specifies one or more priority service areas in which the state will focus its attention. By law, the state council must be composed of representatives of the state agencies primarily responsible for serving people with developmental disabilities and providers and consumers of such services. The designated state administering agency must either be the state DD council or a state agency that does not pay for or provide direct services to persons with developmental disabilities. [N.B., However, if an agency that provides or pays for services was the administering agency prior to June 1, 1988, the Governor of a state has the option of allowing this arrangement to continue.]

State developmental disabilities plans must address the following federal priority areas: employment; community living activities; child development activities; and system coordination and community education activities. In addition, a DD council may identify one additional "state priority area" which it considers essential.

A state is required to expend at least 65 percent of its Part B allotment for activities related to the federal priority area of employment and, at the state's discretion, activities in any of the three other federal priority areas listed above as well as one state priority area. Allotments to the states are determined based on state population, relative per capita income and Social Security childhood disabilities beneficiary data. The minimum state allotment, as of 1991, was $350,000, but will be raised to $400,000 once the total appropriation for the Part B grant-in-aid program reaches $65.0 million.

State DD Councils may use their federal allotment to:

- enhance system coordination and conduct activities to increase the capability of the service system to respond to the needs of persons with developmental disabilities;

- conduct studies or analyses, gather information, develop model policies and procedures and present the findings and conclusions of such studies to state policymakers;
- demonstrate new ways to enhance the independence, productivity and integration of persons with developmental disabilities;
- conduct outreach activities for such persons to enable them to access services;
- train persons with developmental disabilities, their family members, volunteers, professionals and students to access or provide services; and
- conduct activities to prevent disabilities from occurring and to expand services throughout the state.

Each state developmental disabilities council must submit an annual report to the Secretary of HHS which summarizes its activities, identifies barriers to serving persons with physical or mental impairments, and describes actions taken by the state with respect to ICF/MR survey reports and plans of correction prepared in response to federal validation surveys. FY 1991 appropriations (est.): $64.4 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, as amended, P.L. 88–164, P.L. 91–517, P.L. 94–103, P.L. 95–602, P.L. 97–35, P.L. 98–527, P.L. 100–146 and P.L. 101–496. 42 U.S.C. 6000 et. seq. C.F.D.A.: 93.630.

2. *Grants to Protection and Advocacy Systems.* (see "Rights" section).

3. *Grants to University Affiliated Programs*. Part D of the Act authorizes grants to support the administration and operation of university affiliated programs (UAPs). Part D grants may be used to defray the cost of programs that provide interdisciplinary training for personnel concerned with persons with developmental disabilities in areas of emerging national significance (especially early intervention, aging persons with developmental disabilities, community services, positive behavior management, assistive technology and other areas selected by the particular UAP in consultation with the state DD planning council).

Applicants for UAP awards must have previously received an award or conducted a feasibility study to develop a UAP. FY 1991 appropriations (est.): $13.9 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, as amended, P.L. 88–164, P.L. 91–517, P.L. 94–103, P.L. 95–602, P.L. 99–35, P.L. 98–527, P.L. 100–146, and P.L. 101–496. 42 U.S.C. 6061 et. seq. C.F.D.A.: 93.632.

4. *Grants for Projects of National Significance.* Part E of the Act provides financial support for projects that train policymakers, develop ongoing data collection systems, determine the feasibility and desirability of developing a nationwide information and referral system, pursue interagency initiatives and conduct other projects of significant size and scope that hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities. Projects must have direct national impact, be replicable, and be conducted in a number of sites across the country as part of a unified program. FY 1991 appropriations (est.): $3.0 million.

References: Developmental Disabilities Assistance and Bill of Rights Act, as amended. P.L. 88–164, P.L. 91–517, P.L. 94–103, P.L. 95–602, P.L. 97–35, P.L. 98–527, P.L. 100–146 and P.L. 101–496. 42 U.S.C. 6081 et. seq. C.F.D.A.: 93.631.

C. Legislative History

The Developmental Disabilities Assistance and Bill of Rights Act evolved from the Mental Retardation Facilities Construction Act of 1963 (Title I, P.L. 88–164). The 1963 Act authorized federal support for the construction of mental retardation research centers, university-affiliated training facilities, and community service facilities for children and adults with mental retardation. The Mental Retardation Amendments of 1967 (P.L. 90–170) extended and expanded this legislation by authorizing federal funds to assist in the costs of initiating services in community mental retardation facilities.

The Developmental Disabilities Services and Facilities Construction Amendments of 1970 (P.L. 91–517) significantly expanded the scope and purpose of the Mental Retardation Facilities Construction Act of 1963. The 1970 legislation was designed to provide states with broad responsibility for planning and implementing a comprehensive program of services and to offer local communities a strong voice in determining needs, establishing priorities, and developing a system for delivering services. The focal point of such statewide planning and coordination activities was to be a council, made up of representatives of public and private agencies and consumers of the services they provided to persons with severe disabilities originating in childhood.

The term developmental disability was defined in the 1970 Act to mean "a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals..." In addition, the disability was required to be substantial in nature and have originated before the individual reached age eighteen and have continued or be expected to continue indefinitely.

In addition to reauthorizing all grant programs under the Act, the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (P.L. 94–103) made several significant changes in the original 1970 statute, including:

- The term "developmental disability" was broadened to include autism and dyslexia; however, only dyslexic children and adults who also had mental retardation, cerebral palsy, epilepsy, or autism were to be eligible for services.
- A new funding authority was added to assist in renovating and modernizing university affiliated facilities. In addition, a portion of any increased UAF grant funding was to be set aside for feasibility studies and operating support for satellite centers in states without UAF programs.
- A significantly revised special project grant authority was included in the legislation. The purpose of this program was to assist public agencies and nonprofit organizations to demonstrate new and improved service delivery techniques and to disseminate information.

P.L. 94–103 also added a new title (Title II) designed to protect the rights of individuals with developmental disabilities (for details see the "Rights" section below). In addition, P.L. 94–103 directed the Secretary to commission an independent contractual study of the appropriateness of the current definition of a "developmental disability", make recommendations for revisions in the definition, as well as the adequacy of services to excluded groups of individuals with disabilities.

In 1978, the Developmental Disabilities Act was further revised by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments (P.L. 95–602). Under this legislation, Congress adopted a new statutory definition of the term "developmental disability" which shifted the emphasis from etiological conditions to the severity of an individual's functional impairments. The new definition eliminated the previous references to specific disability categories (e.g., mental retardation, cerebral palsy, epilepsy and autism) and substituted language that underscored the early severity and chronicity of the functional impairments among the target population of the program.

P.L. 95–602 also (a) required the states to focus an increased share of their federal-state grant funds on a limited number of priority service areas; (b) specified that the state planning council and the administering agency were to "jointly" develop the state developmental disabilities plan; and (c) mandated that at least one-half, instead of

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one-third, of the members of the state council had to be consumer representatives.

P.L. 95–602 clarified the functions of UAFs and satellite centers. In addition, the 1978 amendments mandated the establishment of UAF standards within six months of enactment of the legislation. P.L. 95–602 also established a minimum allotment of $150,000 to university affiliated facilities, $75,000 for existing satellite centers and $50,000 for state protection and advocacy systems.

The overall purpose of the DD Act was expanded by the 1984 amendments to the Act (P.L. 98–527) to include assisting persons with developmental disabilities to achieve their maximum potential through increased independence, productivity and integration into the community. Definitions of these key terms were added to the Act, as well as definitions of "employment related activities" and "supported employment".

P.L. 98–527 also (a) revised the priority service areas (shifting the emphasis to employment-related services); (b) added new council and Secretarial reporting requirements; (c) mandated the establishment of an interagency coordinating council; (d) specified that each person receiving services under the Act must have an individual habilitation plan; (e) required states to assess personnel training needs; and (f) increased minimum state allotments to $250,000 for basic state grants, $150,000 for protection and advocacy grants, and $175,000 for UAF grants.

The 1987 amendments to the Act (P.L. 100–146) modified provisions of the Act dealing with the designation of the state administering agency, requiring it to be either (a) the state planning council (if it is so designated in state laws); or (b) a state agency that does not provide or pay for services to persons with developmental disabilities. However, an agency that pays for or provides services and was the designated agency at the time of enactment could continue to serve in this capacity if the Governor so specified prior to June, 1988.

In addition, by 1990 each state planning council was required under the provisions of P.L. 100–146 to prepare and submit to the Secretary a comprehensive report on the needs of persons with developmental disabilities in its jurisdiction and the steps that should be taken to address these needs. The Secretary, in turn, was directed to consolidate the findings, conclusions and recommendations of the 56 state/territorial councils and submit a report to Congress on national actions that should be taken.

Minimum allotments for the basic state grant program also were raised to $350,000 under the 1987 amendments. In addition, minimum allotments to state protection and advocacy systems were increased to $200,000 and these agencies were given authority to investigate suspected incidents of institutional abuse and neglect involving persons with developmental disabilities.

University Affiliated Facilities were redesignated University Affiliated Programs under P.L. 100–146, and the Secretary of HHS was directed to make training grants to assist UAPs in addressing the needs of persons with developmental disabilities in areas of emerging national significance, especially early intervention, services for elderly persons with developmental disabilities and the provision of community-based services. Minimum UAP allotments also were increased to $200,000.

The 1990 amendments to the Developmental Disabilities Act (P.L. 101–496) specified that the primary roles of state developmental disabilities planning councils were to serve as an advocate of persons with disabilities, conduct public policy analysis and develop plans for improving developmental disabilities services statewide. P.L. 101–496 also (a) clarified the conditions under which state protection and advocacy systems must be granted access to confidential client records; (b) clarified the process by which the Governor may redesignate the State protection and advocacy agency and who may be appointed to such an agency's governing board; (c) granted university affiliated programs the option of focusing on a training priority area that addresses a unique need of the state in which it is located; and (d) clarified the authority of state DD planning councils to hire and supervise the council's director and other staff members.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

The Domestic Volunteer Service Act of 1973, as amended, authorizes several federal assistance programs aimed at harnessing the resources of volunteers to help underprivileged people. Among the programs authorized under the Act are the Foster Grandparent program and the "Helping Hand" program.

The Foster Grandparent program provides grants to public and nonprofit agencies to cover up to 90 percent of the costs of developing and operating projects designed to give low-income persons, age 60 and older, opportunities to receive modest financial compensation while serving children with exceptional needs in health, education, welfare and related settings. Persons age 60 and older, who have income that exceeds program eligibility standards, may serve as nonstipend volunteers. A high percentage of all foster grandparents currently involved in the program are working with youngsters with mental retardation in institutional and community-based settings. One goal of the program is to place foster grandparents in settings where their presence and activities can facilitate orderly deinstitutionalization of children.

The Foster Grandparent program originally was authorized under the Economic Opportunity Act of 1964, as part of President Johnson's "War on Poverty". In 1967, however, legislative authority for the program was transferred to the Older Americans Act (P.L. 91–69).

In 1973, Congress consolidated a variety of existing federal voluntary service programs under a single statutory authority, called the Domestic Volunteer Service Act (P.L. 93–133). The 1973 legislation also (a) created, by law, the ACTION agency, an independent federal agency responsible for administering volunteer service programs; and (b) established the Senior Companion program to permit low-income, elderly volunteers to aid adults with exceptional needs. The Senior Companion program was intended to provide a parallel authority to the Foster Grandparent program, focused on dependent adults, especially frail elderly persons.

The Older Americans Act Amendments of 1975 (P.L. 94–135) extended the authorizations of the Foster Grandparent and Senior Companion programs, while the 1976 amendments (P.L. 94–293) to the Domestic Volunteer Service Act directed the ACTION agency to allow individuals with mental retardation who were participating in Foster Grandparent programs to continue receiving services, under certain circumstances, after they reached 21 years of age. P.L. 94–293 also gave private nonprofit agencies operating Foster Grandparent programs broad discretion to determine (a) which children should receive services; and (b) the length of time a child may participate in the program. However, the primary focus of a Foster Grandparent grant program still was to be on services to children under 21 years of age.

The Comprehensive Older Americans Act of 1978 (P.L. 95–478), once again, extended the Foster Grandparent program for three years, consolidating its authorizations with the Senior Companion program. The legislation also raised the stipend that participants could receive. The legislation also redefined the term "low income" to mean persons with an annual income of under 125 percent (rather than 100 percent) of the government's poverty index.

The Domestic Volunteer Service Amendments of 1979 (P.L. 96–143) established a new demonstration program aimed at reducing the need for institutionalization among persons who are elderly or otherwise disabled. The so-called "Helping Hand" program was designed to utilize person-to-person services, involving both younger and older volunteers, in an effort to increase the ability of elderly persons and persons with disabilities to remain in the community and to reduce their isolation. The program was to be coordinated with the state's Developmental Disabilities Protection and Advocacy System.

The Domestic Volunteer Service Act Amendments of 1984 (P.L. 98–288) permitted the replacement of foster grandparents working with adults who have mental retardation. Under former law, a foster grandparent could continue to serve a person with mental retardation who turned 22, but that foster grandparent could not be replaced by another individual.

The 1986 Amendments to the Act (P.L. 99–551), authorized non-low income individuals to participate in volunteer service programs under the Act without receiving any stipend except reimbursement for meals, transportation or out-of-pocket expenses.

The Domestic Volunteer Service Act Amendments of 1989 (P.L. 101–204) extended all existing programs authorized under the Act through FY 1992. FY 1991 appropriations (est.): $62 million (Foster Grandparent program).

References: Domestic Volunteer Service Act of 1973, as amended. P.L. 91–69, P.L. 93–113, P.L. 94–135, P.L.94–293, P.L. 95–478, P.L. 96–143, P.L. 98–288, P.L. 99–551 and P.L. 101–204. 42 U.S.C. 5011. C.F.D.A.: 72.001.

HEAD START ACT

The Head Start program, initially part of President Johnson's "War on Poverty," provides comprehensive health, education, nutrition, social and other services to economically disadvantaged preschool children and involves parents in activities with children so that each participating child has an opportunity to attain overall social competence. Project grants are made to local governments or private non-profit agencies which, in turn, may sub-contract with other child service agencies to provide Head Start services.

Originally authorized under the Economic Opportunity Act of 1964, the statutory authority was amended in 1972 (P.L. 92–424) to stipulate that not less than ten percent of the total number of enrollment opportunities in Head Start programs nationwide must be available to youngsters with disabilities and that services must be provided to meet their special needs. The Community Services Act of 1974 (P.L. 93–644) reauthorized Head Start and certain other programs originally established under the Economic Opportunity Act of 1964. P.L. 93–644 also established the Community Services Administration, an independent federal agency, to replace the Office of Economic Opportunity.

The requirement for involving children with disabilities in Head Start programs also was strengthened under the 1974 legislation, by stipulating that each state must assure that at least ten percent of enrollees are children with disabilities. In their reports on the 1974 legislation, both the House Education and Labor Committee and the Senate Labor and Public Welfare Committee expressed deep concern about the manner in which many Head Start agencies were implementing the 10 percent mandate. They noted that many youngsters with mild speech impediments and other minor disorders were being classified as children with disabilities in contravention of the stated intent of Congress. The Department of Health, Education, and Welfare and Head Start grantees were directed to take the necessary steps to assure that only children with disabilities severe enough to require special education and related services be classified and counted as children with disabilities for purposes of the 10 percent service mandate.

The Head Start Act of 1981, a component of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35), continued the program and again mandated that states establish and maintain procedures to ensure that at least ten percent of Head Start enrollees have disabilities. P.L. 97–35 also eliminated the Community Services Administration's status as an independent agency, reduced funding for the program significantly and made it a component of the Department of Health and Human Services.

The "Augustus F. Hawkins Human Services Reauthorization Act of 1990" (P.L. 101–501) raised the reauthorization levels for the Head Start Program to the point where all eligible preschool children would be able to participate by FY 1994. However, actual program appropriations for FY 1991, while some $400 million above the previous year's funding level, were far short of the authorized level. P.L. 101–501 also required that 10 percent of all funding be reserved for improving program quality, by raising teachers salaries, buying new equipment and refurbishing Head Start facilities. FY 1991 appropriations (est.): $1.952 billion.

References: Community Services Act of 1974, as amended. P.L. 92–424 and P.L. 93–644, Omnibus Budget Reconciliation Act of 1981, P.L. 97–35, P.L. 98–558 and P.L. 101–501. 42 U.S.C. 9831 et seq. C.F.D.A.: 93.600.

CHILD ABUSE PREVENTION AND ADOPTION REFORM

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (P.L. 95–266) authorized a new demonstration grant program aimed at improving adoption practices, especially for children with special needs including youngsters with disabilities. Under this program, as later amended by Child Abuse Prevention, Adoption and Family Services Act of 1988 (P.L. 100–294), the Secretary awards grants for (a) demonstration projects in the field of special needs adoption which are of regional or national significance; and (b) projects which demonstrate new methods that show promise of substantially advancing adoption practices for special needs populations.

P.L. 100–294 also established a formula grant program under which states may qualify for federal financial assistance in developing, strengthening and carrying out child abuse and neglect prevention/treatment programs. No state/local matching funds are required but, to qualify for such assistance, a state must meet a number of statutory requirements.

This program is complemented by a project grant authority, also authorized under P.L. 100–294, which is intended to improve child abuse prevention, identification and treatment programs at the state, community and family levels through research and demonstration grants as well as technical assistance activities. FY 1991 appropriations: $12.7 million (Adoption Assistance Program); $19.5 million (Child Abuse and Neglect State Grants); and $14.6 million (Child Abuse and Neglect Discretionary Grants).

References: Child Abuse Prevention and Treatment Act, P.L. 93–247, the Child Abuse Prevention, Adoption and Family Services Act of 1988, P.L. 100–294, as amended by P.L. 101–266 and P.L. 101–645, 42 U.S.C. 5101 et. seq. C.F.D.A.: 93.652 (Adoption Opportunities Program); 93.669 (Child Abuse and Neglect State Grants); 93.670 (Child Abuse and Neglect Discretionary Grants).

OLDER AMERICANS ACT

The Older Americans Act of 1965 (P.L. 89–73) created the Administration on Aging as a unit within the federal government to develop new and improved programs to help older people. The Act also authorized grants for state and community programs on aging, research, development and training funds, as well as an advisory committee on older Americans. Under the Act, each state maintains a state unit on aging to plan and implement statewide aging programs.

The Act was extended in 1967 (P.L. 90–42) and the personnel training program was expanded. Amendments to the Act in 1969 (P.L. 91–69) strengthened the planning and leadership capacities of the state units on aging. The Nutrition Programs for the Elderly Act was passed in 1972 (P.L. 93–351), to provide nutritious meals, nutrition education and other related services to eligible older individuals. This law stipulated that meals could either be served in a congregate setting or delivered to individuals at home.

The 1973 amendments to the Act (P.L. 94–135) placed an emphasis on statewide planning and coordination of services, using all available resources. P.L. 94–135 also made permanent the Older Americans Community Service Employment program.

Priority services were mandated under the 1975 amendments to the Act (P.L. 94–135); the four designated priorities were housing, continuing education, pre-retirement education and services to older persons with disabilities. The ability of state and area agencies on aging to serve as brokers or coordinators of services was significantly expanded by the 1978 amendments to the Act (P.L. 95–478). In addition, a discretionary project grant authority was added that year and the statutory priorities were streamlined to include access to services, in-home services and legal services.

The 1981 amendments encouraged the Secretary of Health and Human Services to give priority to discretionary grant applications that focused on providing mental and supportive health services to older persons (P.L. 97–115). P.L. 98–459, the Older Americans Act of 1984, clarified the roles of Area Agencies on Aging.

In 1987, the Act was amended (P.L. 100–175) to include several provisions related to older persons with developmental and other disabilities and/or mental health needs. Among the provisions of P.L. 100–175 are requirements that:

- planning linkages be established between the HHS Commissioners of Aging, Developmental Disabilities and Alcohol, Drug Abuse and Mental Health;
- the Commissioner of Aging consult and cooperate with the Commissioner of the Rehabilitation Services Administration in planning OAA programs; and
- in evaluating OAA programs the Commissioner on Aging consult with DD organizations whenever possible.

P.L. 100–175 also included definitions of the terms "disability" (reflecting the federal definition of a developmental disability) and "severe disability." Area Agencies on Aging were required to take into account older individuals with disabilities when developing their plans. In addition, the state ombudsman programs on long term care, as authorized under the Older Americans Act, were required to coordinate their activities with state protection and advocacy programs authorized under the Developmental Disabilities Assistance and Bill of Rights Act.

References: Older Americans Act of 1965, as amended, P.L. 89–73, P.L. 90–42, P.L. 91–69, P.L. 93–29, P.L. 93–351, P.L. 94–135, P.L. 95–65, P.L. 95–478, P.L. 97–115, P.L. 98–459, and P.L. 100–175. 42 U.S.C. 3021 et. seq. C.F.D.A.: 93.552, 93.553 and 93.633.

TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES ACT OF 1986

The Temporary Child Care for Handicapped Children andCrisis Nurseries Act of 1986 (P.L. 100–403) authorized the Secretary of Health and Human Services to make grants to the states to support public and private agencies that furnish temporary, non-medical child care services to youngsters with disabilities as well as children with chronic or terminal illnesses. Such services were to be furnished in either in-home or out-of-home settings. Families could be charged, on a sliding scale basis, to cover the costs of these services.

The 1986 legislation also created a demonstration grant program to establish crisis nurseries for children who are abused and neglected, at high risk of abuse and neglect, or who are in families receiving child protection services. These crisis nurseries also must provide information and referral services.

The Children with Disabilities Temporary Care Reauthorization Act of 1989 revised and extended the programs established under P.L. 100–403 and authorized the expenditure of up to $20 million in both FY 1990 and FY 1991.

One half of the funds appropriated for programs authorized under the Act must be used to support temporary child care arrangements and one-half for the establishment and operation of crisis nurseries. A total of $11.0 million was appropriated for these two programs during FY 1991.

References: Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986, as amended. P.L. 99–401, P.L. 100–403, P.L. 100–505, and P.L. 101–127. 42 U.S.C. 5117 et. seq. C.F.D.A.: 93.656.

ABANDONED INFANTS ASSISTANCE ACT

The Abandoned Infants Assistance Act of 1988 authorized grants to assist public and non-profit private entities in developing methods to prevent the abandonment of infants and young children and to meet the needs of such youngsters, especially those who are infected with acquired immune deficiency syndrome (AIDS). Established in response to the growing problem of "boarder babies", the aim of this program is to (a) assist in finding appropriate residences for such children; (b) provide respite care for families and caretakers; (c) recruit and train foster families to serve as caregivers; and (d) recruit and train health and social service personnel to work with birth and foster families as well as residential care personnel who will assist abandoned infants and young children. The statutory authority for the program was extended for an additional three years in 1991, under the provisions of P.L. 102–236. A total of $12.6 million was appropriated for this program in FY 1991.

Reference: Abandoned Infants Assistance Act of 1988, Section 104, P.L. 100–505. 42 U.S.C. 670. C.F.D.A. 93.551.

CHILD CARE AND DEVELOPMENT BLOCK GRANTS

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) established a new block grant program to assist the states in improving the quality, availability and affordability of child care services. In order to receive funds, a state is required to (a) designate a lead agency which is responsible for coordinating the program with other federal, state and local child care programs; and (b) develop and submit a state plan to carry out the requirements of the Act.

Federal funds may be used to provide child care services as well as to improve the quality and accessibility of such services. Appropriated funds are allocated among the states in accordance with a formula based on the number of children in a state under the age of 5 and the number of youngsters eligible for free and reduced-price school lunches.

States may use up to 75 percent of their block grant allotments to pay for child care services on behalf of eligible children, defined as youngsters under 13 years of age in families with total incomes of 75 percent or less of the state's median income for a family of the same size. At least 25 percent of a state's allotment, however, must be reserved for activities aimed at improving the quality and availability of early childhood development and before-and-after-school child care programs.

States are required to give priority to serving children with special needs or who came from families with very low incomes. The costs of grant-supported child care services must be shared with families in accordance with a sliding fee schedule, based on ability to pay.

The 1990 legislation authorized $750 million for the Child Care Development and Block Grant Program in FY 1991, $825 million in FY 1992, $925 million in FY 1993 and "such sums as may be necessary" in FY 1994 and 1995. Actual appropriations for the program totalled $744.9 million in FY 1991 and $825 million in FY 1992.

References: Child Care and Development Block Grant Act of 1990; Omnibus Budget Reconciliation Act of 1990, Section 5082, P.L. 101–508. 42 U.S.C. 9858 et. seq. C.F.D.A.: 93.037.

TRANSPORTATION

URBAN MASS TRANSPORTATION ACT

Section 16(b) of the Urban Mass Transportation Act of 1964 was amended in 1970 to require eligible local jurisdictions to plan and design mass transit facilities and services so that they would be available to and useable by people who are elderly or otherwise disabled (P.L. 91–453). A special program of grants and loans also was authorized under the Act to help state and local public agencies provide mass transportation services which are "planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons."

Such agencies were permitted to use federal funds to purchase special buses or vans for transporting persons with severe mobility limitations. Amendments included in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100–17) authorized a federal share of 95 percent of the costs for certain capital improvement projects that enhance the accessibility of public transportation services for persons who are elderly or disabled. Projects required under federal law were not eligible for such funding.

The Federal-Aid Highway Act of 1973 (P.L. 93–87) extended eligibility for Section 16(b) grants and loans to private nonprofit corporations. In addition, the 1982 amendments permitted the Secretary of Transportation to earmark up to 3.5 percent of the Urban Mass Transportation Fund for special transportation services benefiting individuals who are elderly or disabled.

The Urban Mass Transportation Act contains three additional programs that affect persons with disabilities. The Mass Transportation Technology Research and Demonstration program provides funding for projects addressing national priorities, including transportation accessibility for persons who are elderly or disabled. The design for the "Transbus," a specially designed vehicle for transporting persons with physical disabilities, was financed through this authority.

The Urban Mass Transportation Technical Studies program provides grants to assist in planning, engineering and designing mass transit projects, including special planning efforts for transporting persons who are elderly or disabled. In addition, the Urban Mass Transportation Demonstration Grants program supports projects to develop and test innovative techniques and methods "in an operational environment" that will improve mass transit service, including special services for riders who are elderly or disabled.

The Urban Mass Transportation formula grant program was amended by the National Mass Transportation Assistance Act of 1974 (P.L. 93–503) to require project applicants to assure that the fares charged to persons who are elderly or disabled during nonpeak hours do not exceed one-half of generally applicable rates for other riders during peak hours. In addition, localities were permitted under P.L. 93–503 to transport riders who are elderly or disabled free of charge and still be eligible for federal formula grant aid.

The Surface Transportation Assistance Act of 1978 (P.L. 95–599) continued prior statutory authorizations for programs serving persons with disabilities and emphasized the need to consider persons with disabilities under all transportation assistance authorities. The 1978 Act also created a new grant program for national or local programs that address human resource needs, as they apply to public transportation activities.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 contained a requirement that the Secretary of Transportation conduct a study of the feasibility of developing standards for UMTA-funded programs related to the use of tactile mobility aids to ease access to transportation facilities and equipment for persons with blindness or severe visual impairments.

The Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203) established a demonstration project under which UMTA funds were to be used to develop model techniques for identifying persons with disabilities in the community, developing outreach strategies and providing training programs for transit operators and persons with disabilities. The overall aim of these activities was to solve critical barriers to transportation and accessibility for persons with disabilities. Funding for this activity was included in the DOT's FY 1988 appropriations act. This three year demonstration is currently being operated through the National Easter Seal Society.

The "Intermodel Surface Transportation Efficiency Act of 1991" (P.L. 102–240) authorized a dramatic shift in responsibility for establishing transportation priorities to state and local governments. While retaining a strong federal role in completing and maintaining a 155,000 mile federal highway system (including an interstate highway network and primary arterial roads), the legislation transferred most other policymaking functions to state and local officials.

P.L. 102–240 authorizes total outlays of $151 billion over six years for highways, mass transit, highway safety and other surface transportation programs. Of this total, $119.5 billion is earmarked for highway and highway safety programs and $31.5 billion for mass transit. However, a state is permitted to transfer up to 54 percent of its highway system funds, or $65 billion, to mass transit projects. In addition, it may shift up to 50 percent of the $21.0 billion set aside for the National Highway System between FY 1992–1997, and up to 100 percent of such funds with the approval of the Secretary of Transportation.

Section 3 of the Urban Mass Transportation Act is amended by P.L. 102–240 to permit public transit agencies to apply for capital funding for projects specifically designed to meet the needs of riders who are elderly or disabled. The federal matching share for such projects is 90 percent, while the federal share for all other projects is 80 percent (except for projects to promote compliance with the Clean Air Act, which also is 90%).

In addition, P.L. 102–240 authorizes increased set aside funds under Section 16(b) of the Act to assist localities in meeting the special transportation accessibility needs of people who are elderly or disabled. These set aside funds are to be calculated as a set percent (1.34%) of total appropriations for mass transit projects each year. Using the full authorized amounts, funding would grow from $55.0 million in FY 1992 to $97.2 million by FY 1997. These special earmarked funds, however, may be used for other surface transportation priorities if the accessibility requirements of the Americans with Disabilities Act are met in the particular urban jurisdiction and the transfer is approved by the Metropolitan Planning Organization.

References: Urban Mass Transportation Act of 1964, as amended. P.L. 91-453, P.L. 93-503, P.L. 93-87, P.L. 95-599, P.L. 100-17, P.L. 100-203 and P.L. 102-240. 49 U.S.C. 1601. C.F.D.A.: 20.500, 20.505, 20.509 and 20.513.

FEDERAL-AID HIGHWAY ACT

The Federal-Aid Highway Act of 1973 (P.L. 93–87) authorized the use of funds under the Highway Improvement Program "to provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons ... across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the states." Highway improvement funds also may be used for providing accessible rest stop facilities.

The Act was amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100–17) to require the Secretary of Transportation to conduct a study to determine (a) any problems encountered by persons with disabilities in parking motor vehicles; and (b) whether or not each state should establish parking privileges for persons with disabilities and grant to nonresidents of the state the same parking privileges granted to residents. The study, which was submitted to Congress in 1987, recommended that a model state statute be developed and that Congress consider developing a federal statute related to accessible parking for persons with disabilities.

In 1988, Congress enacted the "Traffic Safety for Handicapped Individuals Act" (P.L. 100–641) which required the Department of Transportation to issue regulations establishing a uniform parking system for people with disabilities. Responsibility for preparing those rules was delegated to the Federal Highway Administration and the National Highway Traffic Safety Administration. Proposed regulatory guidelines for use by the states in establishing uniform parking systems for people with disabilities were published on March 23, 1990 (55 FR 10988).

References: Federal-Aid Highway Act of 1973, as amended, P.L. 93–87, P.L. 93–643, P.L. 94–280, P.L. 95–599, P.L. 98–78, P.L. 100–17 and P.L. 100–641. 23 U.S.C. 402. C.F.D.A.: 20.205.

RAIL PASSENGER SERVICE ACT

The Amtrak Improvement Act of 1973 (P.L. 93–146) amended the Rail Passenger Service Act to establish the National Railroad Passenger Corporation. This new Corporation was directed to "take all steps necessary to ensure that no elderly or handicapped individual is denied intercity transportation on any passenger train operated by or on behalf of the Corporation." Such steps may include (1) acquiring special equipment and devices and conducting special training for employees; (2) designing and acquiring new equipment and facilities and eliminating architectural and other barriers in existing equipment and facilities; and (3) providing special assistance to persons who are elderly or disabled while boarding and alighting and within terminal areas.

References: Rail Passenger Service Act, as amended, P.L. 93–146, 45 U.S.C. 545(c). C.F.D.A.: N/A.

FEDERAL AVIATION ACT

The Federal Aviation Act of 1958 was amended by the Air Carrier Access Act of 1986 (P.L. 99–435) to prohibit discrimination against "any otherwise qualified handicapped individual" in the provision of air transportation. The Act mandated the promulgation of regulations by the Department of Transportation (DOT) to ensure nondiscriminatory treatment of persons with disabilities, "consistent with the safe carriage of all passengers on air carriers." Final regulations implementing the requirements of P.L. 99–435 were issued by DOT on March 6, 1990 (55 FR 8008).

The Civil Aeronautics Board Sunset Act of 1984 (P.L. 98–443) also amended the Federal Aviation Act, adding a requirement that, prior to amending any regulations or procedures related to air carrier access for persons with disabilities, the Civil Aeronautics Board and/or the Secretary of Transportation must consult with the Architectural and Transportation Barriers Compliance Board.

References: Federal Aviation Act of 1958, as amended by P.L. 98–443 and P.L. 99–435. 49 U.S.C. 1304 and 1374c. C.F.D.A.: N/A.

VOCATIONAL REHABILITATION

REHABILITATION ACT OF 1973

A. Overview

The Rehabilitation Act of 1973, as amended, authorizes over $2 billion in federal support for training and placing persons with mental and physical disabilities into full-time, part-time or supported employment in the competitive labor market. To assist in accomplishing this goal, a wide variety of service, demonstration, training and research grant programs are established under the Act, including a major federal-state grant-in-aid program.

The origins of the federal-state vocational rehabilitation program can be traced back to 1920 when Congress enacted the first civilian program assisting persons with disabilities to regain work skills. Since that time, the Act has been gradually expanded to include services to persons with a wide array of disabling conditions and, in recent years, to focus increased attention on the needs of individuals with severe disabilities.

Except for Titles IV and V of the Act defines the term "individual with handicaps" as a person who:

> "(i) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (ii) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services...".

Except for purposes of Title VII of the Act, an "individual with severe handicaps" is defined as any person with handicaps:

> "(i) who has a severe physical or mental disability which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of employability;
>
> (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
>
> (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury,

> heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-state renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation."

For purposes of Title VII (independent living services), the term "individual with severe handicaps" is defined as a person:

> "...whose ability to function independently in family and community or whose ability to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment."

B. Major Programs Affecting Persons with Disabilities

1. ***Basic Federal-State Vocational Grants.*** Title I of the Act authorizes formula grants to designated state vocational rehabilitation agencies to provide services designed to rehabilitate persons with disabilities.* Such funds may be used for the following purposes:

- diagnosis and evaluation of rehabilitation potential and related services by rehabilitation engineering technology specialists, psychologists and/or physicians;
- counseling, guidance, referral and placement services, including follow-up, follow-along and specific post-employment services necessary to assist qualified individuals to maintain or regain employment;
- vocational and other training services, including personal and vocational adjustment services, books and other training materials, and family adjustment services;
- physical and mental restoration services, including corrective surgery or therapeutic treatment and related hospitalization, prosthetic and orthotic devices, eye glasses, special services, and diagnosis and treatment for mental and emotional disorders;

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*For purposes of the remainder of the discussion of this Act, the more contemporary term person or individual with disabilities is used synonomously with the statutory term "individuals with handicaps", except in the case of direct quotations from the Act.

- income maintenance for subsistence during the period of rehabilitation;
- interpreter and reader services, rehabilitation teaching services, orientation and mobility services for the blind;
- transportation to rehabilitation services, and occupational licenses, tools, equipment, and initial stocks and supplies;
- recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety and law enforcement;
- telecommunications, sensory and other technological aids and devices; and
- rehabilitation engineering services.

In order to receive funds under the Act, states must submit a plan to the Commissioner of the Rehabilitation Services Administration which includes, among other provisions, the following (a) designation of a single state vocational rehabilitation agency to administer or supervise the administration of grant funds; (b) identification of the plans, policies and methods to be followed in carrying out the state plan and a description of the methods to be used in expanding services to individuals with the most severe disabilities. [N.B., States must specify and justify their policies related to the order of selection of clients.]; (c) a description of the results of a comprehensive assessment of the rehabilitation needs of individuals with severe disabilities; (d) a description of how rehabilitation engineering services will be provided to assist an increasing number of individuals with disabilities; (e) assurances that each person with a disability will receive rehabilitation services consistent with an individualized written rehabilitation plan; (f) agreement to cooperate with other agencies serving persons with disabilities, particularly in coordinating services under the Rehabilitation Act, the Individuals with Disabilities Education Act and the Vocational Education Act; (g) agreement to conduct periodic reevaluation of individuals placed in extended employment to determine their feasibility for competitive employment; (h) agreement to conduct public meetings to assist in the development of rehabilitation policies; (i) an outline of plans, policies and methods to be used in assisting in the transition from education to employment-related activities; and (j) assurances that the state has an acceptable plan for providing supported employment services in accordance with Part C of Title VI of the Act.

Funds are allotted to states according to a formula based on relative population and per capita income. FY 1991 appropriations: $1.633 billion.

References: Title I, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221 and P.L. 99-506. 29 U.S.C. 701-731. C.F.D.A.: 84.126.

2. ***Client Assistance Program***. Title I of the Act also authorizes grants to the states to establish and carry out client assistance programs (CAP). The purpose of these grants is to assist states in informing and advising rehabilitation clients and other persons with disabilities on how to access available benefits under the Act, and upon their request, to assist such clients/applicants in their relationships with projects funded under the Act, including assistance in pursuing legal, administrative or other remedies to ensure the protection of the individual's rights under the Act. In order to receive funding under this section of the Act, the Governor of a state must designate a public or private agency to administer the Client Assistance Program (CAP). Generally, this agency must be independent of any entity which provides treatment or services to rehabilitation clients.

Funds appropriated for CAP activities are allotted among the states based on the relative population of each state, with a minimum allotment of $75,000 for states and $45,000 for territories. FY 1991 appropriations: $8.3 million.

References: Title I, Rehabilitation Act of 1973, as amended, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 732. C.F.D.A.: 84.161.

3. ***Innovation and Expansion Grants***. Part C of Title I authorizes grants to state vocational rehabilitation agencies to plan, develop, initiate and expand special services to persons with the most severe disabilities. Funds appropriated under this grant authority also may be used to (a) develop special programs for groups of individuals with disabilities, such as poor clients who have difficult or unusual problems in accessing rehabilitation services; or (b) maximize the use of technological innovations in meeting the employment/training needs of youth and adults with disabilities. FY 1991 appropriations: $0.

References: Part C, Title I, Rehabilitation Act of 1973, P.L. 93-112, as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 741. C.F.D.A.: N/A.

4. ***American Indian Vocational Rehabilitation Services***. Part D of Title I authorizes grants to Indian tribal bodies to cover up to 90 percent of the costs of vocational rehabilitation services furnished to American Indians with disabilities residing on reservations. A state must continue to provide services to Indians if it includes any Indians

in its population count used to determine the state's basic federal vocational rehabilitation allotment. This section does not authorize the creation of a separate system for delivering rehabilitation services to American Indians who reside in non-reservation areas of a state. FY 1991 appropriations: $4.1 million. [N.B., One-quarter of one percent to one percent of the total basic state grant program allocation is set aside for this purpose.]

References: Part D, Title I, Rehabilitation Act of 1973, as amended. P.L. 95-602, P.L. 96-374, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 750. C.F.D.A.: 84.128

5. *Research.* Title II of the Act establishes the National Institute on Disability and Rehabilitation Research (formerly the National Institute of Handicapped Research) and authorizes grants for research, demonstration projects and related activities designed to develop new methods, procedures and devices to assist in the provision of vocational rehabilitation services under the Act, especially for persons with the most severe disabilities.

Such projects may include (a) studies and analyses of industrial, vocational, social, psychiatric, psychological, economic, and other factors affecting the rehabilitation of individuals with disabilities, including studies of supported employment programs; (b) special problems of home-bound and institutionalized individuals; (c) studies, analysis and demonstrations of architectural and engineering designs adapted to meeting the special needs of individuals with disabilities, including those with the most severe conditions.

In addition, NIDRR may award grants to support specialized research through its network of Rehabilitation Research and Training Centers and Rehabilitation Engineering Centers. These centers train rehabilitation personnel, explore new ways of applying rehabilitation engineering services and study spinal cord injuries and end-stage renal disease; they also conduct research concerning the applicability of telecommunication systems to vocational rehabilitation, develop innovative methods of providing pre-school services to children with disabilities, and identify new ways of evaluating and developing the employment potential of persons with disabilities.

The National Institute on Disability and Rehabilitation Research (NIDRR) is responsible for (a) administering the research projects mentioned above; (b) establishing a network of research centers; (c) disseminating research findings and other related information; (d) disseminating education materials to elementary and secondary schools, institutions of higher education, and the general public, including information relating to family care and self care; (e) conducting conferences, seminars, workshops, and in-service training programs concerning research and engineering advances in rehabilitation; and (f) developing statistical reports and studies regarding employment, health, income and other demographic characteristics of individuals with disabilities.

The director of NIDRR is appointed by the President (and confirmed by the Senate) and is directly responsible to the Assistant Secretary for Special Education and Rehabilitative Services in the Department of Education. FY 1991 appropriations: $59.9 million.

References: Title II, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221, P. L. 99-506 and P.L. 102-52. 29 U.S.C. 762. C.F.D.A.: 84.133.

6. *Construction Grants and Loans for Rehabilitation Facilities*. Part A of Title III of the Act (Sections 301 and 303) authorizes grants and loan guarantees to cover the cost of constructing rehabilitation facilities. Grants may be made to state agencies or other public and nonprofit organizations for the construction, staffing and planning of rehabilitation facilities. Staffing grants may cover the cost of professional or technical personnel from the opening of the facility through the fourth year of operation, with a gradually decreasing percentage of federal support over that period. The federal share of construction costs is limited to 50 percent of the allowable cost.

Federal funding also is available to guarantee payment of the principal and interest on loans made to nonprofit, private entities by nonfederal lenders and by the Federal Financing Bank for the construction and equipping of rehabilitation facilities. FY 1991 appropriations: $0.

References: Title III, Rehabilitation Act of 1973, P.L. 93-112 as amended by P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 771. C.F.D.A.: N/A.

7. *Vocational Training Services for Individuals with Disabilities.* Besides facility construction and staffing grants, Part A of Title III of the Act (Section 302) also authorizes the Commissioner to make grants to public and nonprofit organizations to cover 90 percent of the cost of vocational training projects. Services provided under such projects may include training for career advancement, training in occupational skills, related services, work testing and the provision of work tools and equipment. This section also authorizes weekly payments for up to two years to assist individuals who are receiving such training and related services. Such payments may range between $30 and $70 weekly. The purpose of vocational training services is to prepare trainees for suitable, gainful employment, including supported employment. FY 1991 appropriations: $0.

References: Title III, Rehabilitation Act of 1973, P.L. 93–112 as amended by P.L. 93–516, P.L. 94–230, P.L. 95–602, P.L. 96–374, P.L. 98–221 and P.L. 99–506 and P.L. 102–52. 29 U.S.C. 772. C.F.D.A.: N/A.

8. *Training.* Part A of Title III of the Act (Section 304) also authorizes grants to state agencies and other public or nonprofit organizations (including institutions of higher education) to support training projects, traineeships, and related activities designed to assist in increasing the numbers of qualified personnel available to provide vocational, medical, social and psychological components of rehabilitation services to persons with disabilities. Recipients of such grants must attempt to include persons with disabilities as trainees in their programs.

Training also may be provided for personnel responsible for providing employment assistance to individuals with disabilities through job development and job placement services, recreation, and other areas of training that contribute the rehabilitation of persons with disabilities, including persons who are homebound, institutionalized or have limited English-speaking abilities. FY 1991 appropriations: $33.4 million.

References: Title III, Rehabilitation Act of 1973, P.L. 93–112 as amended by P.L. 93–516, P.L. 94–230, P.L. 95–602, P.L. 96–374, P.L. 98–221, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 774. C.F.D.A. 84.129.

9. *Comprehensive Rehabilitation Centers.* Part A of Title III of the Act (Section 305) authorizes the establishment and operation of Comprehensive Rehabilitation Centers. Grants to state vocational rehabilitation agencies are authorized to set up centers which can serve as a focal point in the community for the development and delivery of services designed primarily for individuals with disabilities, including the provision of information and referral, counseling, job placement, health, educational, social and recreational services. FY 1991 appropriations: $0.

References: Section 305, Rehabilitation Act of 1973, as amended, P.L. 93–112, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 775. U.S.D.A.: N/A.

10. *Special Projects and Supplementary Services.* Section 311 of the Rehabilitation Act (Part B, Title III) authorizes a series of supplementary services and special projects to assist in the rehabilitation of certain groups of persons with disabilities. Among these grant authorities are:

a. *Special Demonstration Projects.* Section 311(a) (under Part B of Title III) authorizes grants to states and other public or nonprofit agencies/organizations to pay part or all of the costs of special projects and demonstrations (including research and evaluation) to (1) establish programs, and, where appropriate, construct facilities which provide vocational rehabilitation services that hold promise of expanding rehabilitation services to persons with the most severe disabilities; (2) apply new types or patterns of services or devices for individuals with disabilities; and (3) operate programs, and, where appropriate, renovate and construct facilities to demonstrate methods of making recreational activities fully accessible to persons with disabilities. These projects may include efforts to assist persons with spinal cord injuries. FY 1991 appropriations: $18.4 million.

References: Section 311(a) of the Rehabilitation Act of 1973, as amended. P.L. 93–112, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777a. C.F.D.A.: 84.128.

b. *Handicapped Youth Job Training.* Section 311(c) of the Act authorizes grants to states and other public and non-profit organizations for special projects and demonstrations to prepare young people with disabilities for entry into the labor force. These projects must involve collaboration between educational agencies, vocational rehabilitation agencies, business and industry groups, and labor and local economic development organizations. Services may include job search assistance, on-the-job training, job development, information dissemination to business and industry, and follow-up services for persons placed in employment. FY 1991 appropriations: (included in figure for 10–a above).

References: Section 311(c) of the Rehabilitation Act of 1973, as amended. P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777a(c). C.F.D.A.: 84.128.

c. *Supported Employment Special Demonstrations.* Section 311(d) of the Act empowers the Commissioner of the Rehabilitation Services Administration to make grants to states and public and private organizations for the development and demonstration of supported employment initiatives. At least one such grant must be nationwide in scope. These projects must (a) identify community-based models that can be replicated; (b) identify impediments to the development of supported employment programs; and (c) develop a mechanism to explore the use of existing community-based rehabilitation facilities as well as other community-based programs for the provision of supported employment services. In addition, Section 311(d) authorizes grants to cover the cost of providing technical assistance to states in implementing Part C of Title VI of the Act, which provides formula grants to state and local governments to operate supported employment programs. FY 1991 appropriations: $10.0 million.

References: Section 311(d) of the Rehabilitation Act of 1973, as amended. P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777a(d). C.F.D.A.: 84.128.

d. *Transitional Employment Special Demonstrations.* Section 311(e) of the Act authorizes grants to assist in the development, expansion and dissemination of model statewide transitional planning services for youth with severe disabilities. One grant under Section 311(e) must be made to a public agency in a predominantly urban New England state to support an existing model, statewide transitional planning services program. Under this project, the grantee is required to ensure that (a) there is a single state agency responsible for managing the referral process; (b) participating schools initiate a vocational rehabilitation referral at least two years prior to the youth's expected date of graduation/completion of schooling; (c) participating schools and adult service providers jointly develop individual transition plans for each participant; and (d) case management and tracking services are provided for participating youth. Section 311(c) requires that similar grants be awarded to a public agency in a predominantly rural western state and a public or nonprofit private agency in a predominantly rural southwestern state. FY 1991 appropriations: (included in figure for 10–a above).

References: Section 311(c) of Rehabilitation Act of 1973, as amended. P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777a(e). C.F.D.A.: 84.128.

11. ***Migratory Workers.*** Section 312 of the Act authorizes grants to state or local vocational rehabilitation agencies to cover the costs of vocational rehabilitation services to migratory workers. Applicants for these grants must assure that activities and assistance will be coordinated with other programs serving migratory workers. FY 1991 appropriations: $1.0 million.

References: Section 312 Rehabilitation Act of 1973, as amended. P.L. 94–230, P.L. 95–602, P.L. 96–374, P.L. 98–221, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777b. C.F.D.A.: 84.128.

12. ***Reader and Interpreter Services.*** Sections 314 and 315 authorize grants to state agencies and other public or nonprofit organizations for the establishment of reader services for blind persons and interpreter services for individuals who are deaf. FY 1991 appropriations: $0.

References: Section 314 and 315 Rehabilitation Act of 1973 as amended. P.L. 99–506 and P.L. 102–52. 29 U.S.C. 777d.e. C.F.D.A.: N/A.

13. ***Recreation.*** Section 316 of the Act authorizes grants to state agencies and public and other nonprofit organizations for the development of programs to provide recreational activities to assist persons with disabilities improve their mobility and socialization skills. FY 1991 appropriations: $2.6 million.

References: Section 316, Title III, Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 777f. C.F.D.A.: 84.128.

14. *National Council on Disability.* Title IV of the Rehabilitation Act of 1973, as amended, authorizes the establishment of an independent National Council on Disability. The Council is composed of fifteen members, appointed by the President with the advice and consent of the Senate. Council members represent persons with disabilities, service providers, advocates, researchers, and individuals drawn from the business and labor sectors. The Council and its staff are charged with reviewing all federal statutes related to persons with disabilities, assessing the extent to which such laws offer persons with disabilities opportunities for independence and community integration, and recommending legislative proposals to the President and the Congress. For purposes of the Council's work, the broader definition of the statutory term "individuals with handicaps" is used (see section on "Rights"). FY 1991 appropriations: $1.6 million.

References: Title IV, Rehabilitation Act of 1973, as amended, P.L. 98-221, as amended by P.L. 99-506. 29 U.S.C. 780. C.F.D.A.: N/A.

15. *Employment Opportunities.* Title VI of the Act establishes programs aimed at enhancing employment opportunities for persons with disabilities, including:

a. *Community Service Employment.* Section 611 of the Act authorizes the Community Service Employment Pilot Program, administered by the U.S. Department of Labor. The main aim of this program is to provide full or part-time community employment for persons with disabilities who are referred by state vocational rehabilitation agencies. The Labor Department is authorized to enter into agreements with public and private nonprofit agencies, including national organizations and state and local governments, to conduct such pilot projects. The federal government pays up to 90 percent of the costs of carrying out such projects.

The pilot projects are to provide (a) training and subsistence payments during the training period; (b) payments for any reasonable work-related expenses, transportation and attendant care; and (c) placement services for employees in unsubsidized jobs when federal assistance for the project terminates. FY 1991 appropriations: $0.

References: Section 611 of the Rehabilitation Act of 1973, as amended. P.L. 95-602, P.L. 96-314, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 795. C.F.D.A.: N/A.

b. *Projects with Industry.* Section 621 of the Act authorizes the "Projects with Industry" (PWI) program. Under this authority the federal government may enter into grants with individual employers, designated state vocational rehabilitation units and others to promote opportunities for competitive employment on behalf of individuals with disabilities.

The program also provides appropriate placement services and engages the talents and leadership of private industry as partners in the rehabilitation process. PWI projects (a) create and expand job opportunities for persons with disabilities; (b) provide such individuals with training in a realistic work setting; (c) offer participants necessary support services to permit them to engage in employment; (d) develop job modifications, distribute special aids and modify facilities as needed; and (e) establish business advisory councils to identify jobs and training needs. FY 1991 appropriations: $19.4 million.

Reference: Section 621 of the Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 795g. C.F.D.A.: 84.234.

c. *Business Opportunities.* Section 622 of the Act establishes a program to expand small business opportunities for persons with disabilities. Grants and contracts are authorized to enable such individuals to initiate and operate commercial enterprises and to assist in the development or marketing of their services/products. FY 1991 appropriations: $0.

References: Section 622 of the Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 795i. C.F.D.A.: N/A.

d. *Supported Employment.* Part C of Title VI of the Act authorizes supplementary grants to assist states in developing collaborative public/private ventures to offer training and time-limited post-employment services leading to supported employment for persons with severe disabilities. Supported employment, as defined in this section, means:

> "competitive work in integrated settings—(a) for individuals with severe handicaps for whom competitive employment has not traditionally occurred; or (b) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who, because of their handicap, need ongoing support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness."

Under the terms of the Act, supported employment may be considered an acceptable employability outcome. To be eligible for formula grant assistance under Title VI-C, a state must submit a supplement to its basic state rehabilitation plan, indicating how it will provide services leading to supported employment for persons with severe disabilities. Ongoing supported employment services must be provided by other public agencies (not the rehabilitation agency) and private organizations. Allotments under this program are based on the population of a state, with a minimum allotment of $250,000, or one-third of one percent of the funds made available in any given year (whichever is higher). FY 1991 appropriations: $29 million.

References: Title VI, Rehabilitation Act of 1973, as amended. P.L. 93-112, P.L. 93-516, P.L. 94-230, P.L. 95-602, P.L. 96-374, P.L. 98-221, P.L. 99-506 and P.L. 102-52. 29 U.S.C. 795j-q. C.F.D.A.: 84.128.

16. *Independent Living Services*. Title VII of the Rehabilitation Act authorizes several programs which are aimed at assisting persons with mental, physical and sensory disabilities to achieve and maintain independence, including:

a. *Comprehensive Services for Independent Living.* Part A of Title VII authorizes formula grants to state vocational rehabilitation agencies (or another agency specifically designated by the Governor and approved by the Secretary) for the provision of comprehensive independent living services. Such services must be designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently. Priority must be given to persons who are not currently served by other programs under the Rehabilitation Act.

Independent living services may include: (a) counseling, including psychological, psychotherapeutic and related services; (b) housing, including appropriate accommodations and modifications of any space to serve persons with disabilities; (c) appropriate job placement services; (d) transportation; (e) attendant care; (f) physical rehabilitation; (g) therapeutic treatment; (h) needed prostheses and other appliances and devices; (i) health maintenance; (j) recreation services; (k) services to children of preschool age, including physical therapy, development of language and communication skills, and child development services; and (l) appropriate preventive services to decrease the need for independent living services among participants in the program.

Allotments to the states under the comprehensive Independent Living Services Program are distributed according to relative population, with a minimum of $200,000 per state, or one-third of one percent of the funds appropriated in any given year (whichever is greater). The state vocational rehabilitation agency is designated as the administering agency for the program, with authority to contract with other agencies and organizations for the provision of services. To receive funds under Title VII-A, a state must submit a three-year plan for comprehensive independent living services to RSA. This plan must include:

- a description of the quality, scope and extent of services and the state's goals and plans for distributing funds to independent living programs;
- assurances that service delivery facilities will be accessible to persons with disabilities;
- assurances that special efforts will be made to provide technical assistance to poverty areas, and
- assurances that up to 20 percent of the state's allotment for comprehensive services will be passed through to local public agencies or private non-profit organizations. [N.B., the Commissioner of the Rehabilitation Services Administration has the authority to waive this requirement.]

To receive funding under this part, a state also must maintain a state Independent Living Council, to provide guidance in planning, developing and expanding independent living programs and concepts. FY 1991 appropriations: $13.6 million.

References: Part A, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95–602 as amended by P.L. 96–374, P.L. 98–221, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 796a-d. C.F.D.A.: 84.169.

b. *Centers for Independent Living.* RSA may make project grants to public and private non-profit rehabilitation agencies to establish and operate centers for independent living. Each center must have a board which consists primarily of persons with disabilities who are substantially involved in the policy development and management of such centers. The centers may provide the following services (a) intake counseling and evaluation of client needs; (b) referral and counseling for attendant care; (c) advocacy regarding legal and economic rights; (d) skills training, housing and transportation referral and assistance; (e) health programs; (f) community group living arrangements; (g) individual/group social and recreational activities; and (h) attendant care and training of personnel to provide such care. FY 1991 appropriations: $27.5 million.

References: Part B, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95–602, as amended by P.L. 96–374, P.L. 98–221, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 796e. C.F.D.A.: 84.132.

c. *Services for Older Individuals with Blindness.* Under Title VII-C of the Act, project grants are authorized to assist public and non-profit agencies in providing independent living services to persons over age 55 whose visual impairments are severe enough to make gainful employment extremely difficult, but for whom independent living goals are feasible. Services that may be provided under Part C grants include (a) outreach; (b) treatment; (c) provision of eyeglasses and other aids; (d) mobility training; and (e) guide and reader services. FY 1991 appropriations: $5.9 million.

References: Part C, Title VII, Rehabilitation Act of 1973, as amended. P.L. 95–602 as amended by P.L. 96–374, P.L. 98–221, P.L. 99–506 and P.L. 102–52. 29 U.S.C. 796f. C.F.D.A.: 84.177.

C. Legislative History

The federal-state vocational rehabilitation program traces its origins to the National Vocational Rehabilitation Act of 1920, which established a system of state vocational rehabilitation agencies. Major revisions in the Act were adopted in 1954, when the legislation became known as the Vocational Rehabilitation Act. The Act was completely rewritten once again in 1973 (P.L. 93–112) to place a stronger emphasis on provision of rehabilitation services to clients with severe disabilities. This emphasis was expanded further under the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (P.L. 95–602), through the addition of a grant authority for comprehensive independent living services to persons with severe disabilities. The 1978 Amendments also significantly revamped the Act's research authority, establishing in the process a National Institute on Handicapped Research (later renamed the National Institute on Disability and Rehabilitation Research).

The Client Assistance Program was established as a formula grant program under the 1984 amendments to the Act; that year's reauthorization legislation also made the National Council on the Handicapped an independent agency of the federal government. The 1986 amendments represented another attempt by Congress to emphasize services to individuals with severe disabilities. In that year's reauthorization legislation, the definition of severe handicap was strengthened and a new supported employment formula grant program was added, in recognition of the fact that full-time competitive employment is not the only viable outcome of rehabilitation services.

Originally, Congress was scheduled to act on legislation to reauthorize the Rehabilitation Act in 1991, but, when it became clear that insufficient time would be available to develop and act on such legislation, due to competing legislative priorities, Congress passed a simple one year extension of all programs under the Act that were due to expire (P.L. 102–52).

1. ***Basic State Grant Program.*** The 1965 Vocational Rehabilitation Amendments (P.L. 89–333) gave the states greater flexibility in financing and administering state vocational rehabilitation services. Provisions were added to authorize federal matching of local public funds made available to the states. P.L. 89–333 also permitted federal funds to be used to support extended evaluation services for periods of up to 18 months in the case of persons with mental retardation and other disabilities designated by the Secretary.

The Vocational Rehabilitation Act amendments adopted by Congress in 1967 (P.L. 90–99) mandated the elimination of state residency requirements that denied vocational rehabilitation services to otherwise eligible individuals with disabilities. In 1968, P.L. 90–391 made a number of modifications in state plan requirements and increased the federal share of vocational rehabilitation funding to 80 percent.

The Rehabilitation Act of 1973 (P.L. 93–112) recodified and revised the former Vocational Rehabilitation Act, placing a new emphasis on services to individuals with more severe disabilities. For the first time, state vocational rehabilitation agencies were directed to give priority to serving "those individuals with the most severe handicaps" through their basic state grant programs. In addition, state agencies were required to describe "the method to be used to expand and improve services" to this target population. Similar provisions granting priority to individuals with the most severe disabilities were included in the statutory authority for other programs under the Act as well.

The Rehabilitation Act of 1973 also required state VR agencies to develop an "individualized written rehabilitation program" (IWRP) on each client receiving services. The IWRP, which was to be jointly developed by the rehabilitation counselor and the individual with the disability (or, in appropriate cases, his/her parents or guardian), was to spell out (a) the terms, conditions, rights and remedies under which services were to be provided; and (b) the long range and intermediate service goals to be attained. The 1973 Act specified that each individual's IWRP was to be reviewed at least annually and safeguards were to be included to assure that every individual capable of achieving a vocational goal had an opportunity to do so.

P.L. 93–112, for the first time, also established, by statute, a Rehabilitation Services Administration within the Department of Health, Education, and Welfare and delegated to the RSA Commissioner responsibility for administering all aspects of the rehabilitation program authorized under the Act. [N.B., The Rehabilitation Services Administration was later transferred to the Department of Education under the terms of the Department of Education Organization Act (P.L. 96–88; see Education section above).]

The 1974 amendments to the Act (P.L. 93–516) clarified a number of the provisions of the Rehabilitation Act of 1973. One modification was the addition of a broader definition of "handicapped individual," applicable to Title IV and Title V of the Act. P.L. 93–516 also revised the requirement for developing an individualized written rehabilitation plan for each client. Emphasis was placed on reporting and analyzing the reasons for determining ineligibility and reevaluating individuals who were refused services to ascertain whether they had any potential for achieving vocational goals. The 1974 legislation specified that clients must be given an opportunity to participate in any determination of service ineligibility and be advised of their rights and the remedies available to them.

The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (P.L. 95–602) revised the formula for determining state allotments under the basic federal-state vocational rehabilitation grant-in-aid program and linked future funding increases to the national Consumer Price Index. The 1978 amendments also provided for the establishment of a number of discretionary grant programs and the expansion of existing rehabilitation-related services to persons with disabilities and severe disabilities under the Rehabilitation Act of 1973.

Under the Rehabilitation Amendments of 1984 (P.L. 98–221) the Client Assistance Program, which was a small discretionary program until 1984, was established as a formula grant program to assist clients and applicants in understanding the projects, programs and facilities providing services under the Act. The agency implementing this program was to be designated by the Governor of each state and had to be independent of any agency which provided rehabilitation services under the Act.

The Rehabilitation Act Amendments of 1986 (P.L. 99–506) amended the definition of a "severe handicap" to include functional as well as categorical criteria. In addition, a definition of "employability" was inserted in the Act for the first time, to clarify that part-time work is a viable outcome of rehabilitation services. Prior to 1986, each state vocational rehabilitation agency exercised its own discretion in determining whether a person was employable, and thus qualified to receive rehabilitation services.

In addition, the 1986 amendments required the states to not only provide evidence that they have policies governing the order in which clients are selected for services but also to justify these policies. The state plan requirements also were changed in 1986 to require states to (a) plan for individuals who are making the transition from school-to-work; and (b) reflect how the state will implement the new supported employment program authorized under Title VI-C of the Act.

2. ***Innovation and Expansion Grants.*** Innovation and expansion grants were authorized under Section 3 of the Vocational Rehabilitation Act of 1954. These grants were to be used to expand and improve rehabilitation services, particularly services to individuals who have severe disabilities and other hard-to-rehabilitate clients. In 1965, amendments to the Act (P.L. 89-333) increased the federal share of the cost of such grants to 90 percent during the first three years of funding and 75 percent during the next two years. The Rehabilitation Act of 1973 (P.L. 93-112) recodified the authority governing such grants.

The 1984 amendments added a focus on individuals with the most severe disabilities to the innovation and expansion grant authority and authorized funds to be used to expand services to groups of individuals who have unusual or difficult problems related to their rehabilitation and to study applications of technology that assist in the rehabilitation process.

3. ***Research.*** Research programs under the early versions of the Act were significantly expanded under the 1978 amendments to the Rehabilitation Act (P.L. 95-602). The 1978 amendments established a National Institute of Handicapped Research, (later renamed the National Institute on Disability and Rehabilitation Research), with broad responsibilities for overseeing an expanded research program. Among the key features of the statutory provisions authorizing the new Institute were the following:

- the Institute was created as a separate administrative entity within the Department, independent of the Rehabilitation Services Administration, with a director appointed by the President;
- a network of research and training centers, developed in conjunction with institutions of higher education, was to be established to train rehabilitation professionals and researchers and to coordinate and conduct research. The twenty existing federally-funded Rehabilitation Research and Training Centers were to form the basis of this network;
- a Federal Interagency Committee was established to identify and coordinate all federal rehabilitation research activities; and
- a long range plan for rehabilitation research was to be developed to identify research needs, funding priorities, and the goals of the Institute.

Rehabilitation Research and Training Centers were set up to conduct research and establish model programs demonstrating innovative methods of providing services to preschool-aged children with disabilities. Such service-related research was to include (a) early intervention, parent counseling, infant stimulation, and early identification; (b) diagnosis and evaluation of children with severe disabilities; (c) physical therapy, language development, and pediatric nursing and psychiatric services; and (d) appropriate services for parents.

The 1986 amendments to the Act changed the name of the Institute to the National Institute on Disability and Rehabilitation Research. Furthermore, the NIDRR was charged with submitting policy recommendations to Congress regarding the establishment of an agency designed to ensure (a) the development and cost-effective production of technological devices; and (b) the efficient distribution of such devices.

The 1986 amendments also added provisions mandating:

- a NIDRR-directed study of health insurance practices and policies affecting persons with disabilities, to be submitted to Congress by February 1, 1990; and
- the establishment of two rehabilitation engineering centers, one each in South Carolina and Connecticut.

4. *Rehabilitation Facilities.* Authorization for construction of rehabilitation facilities was included in 1964 amendments to the Hill-Burton Medical Facilities Construction Act (P.L. 88–443), under Title VI of Public Health Service Act. The 1965 amendments to the Vocational Rehabilitation Act (P.L. 89–333) authorized a five-year program of federal assistance to help plan, build, equip, and initially staff rehabilitation facilities and workshops.

The 1967 amendments to the Act (P.L. 90–391) permitted funds under the basic vocational rehabilitation program to be used for new construction as well as expansion and/or alteration in existing buildings. A state was permitted to use no more than 10 percent of its basic allotment to support such construction activities. In addition, states were required to provide assurances that other vocational rehabilitation services would not be diminished due to the use of funds for construction.

The Rehabilitation Act of 1973 (P.L. 93–112) established a program of mortgage insurance for rehabilitation facilities. P.L. 93–112 authorized mortgage insurance to guarantee up to 100 percent of a loan for the construction of a public or nonprofit rehabilitation facility. Initial capital was authorized for the insurance fund and a $200 million restriction was placed on the total amount of outstanding mortgages.

5. *Special Projects.* Authority for special projects and supplementary services has been contained in various amendments to the Vocational Rehabilitation Act.

The 1967 amendments (P.L. 90–99) authorized special project grants to state vocational rehabilitation agencies to pay up to 90 percent of the cost of furnishing vocational rehabilitation services to migratory farm workers. These services were to be provided in coordination with other agencies supplying services to migrant workers.

The 1968 amendments to the Act (P.L. 90–391) expanded the authority for special projects to include: (a) rehabilitation services for persons with mental retardation; (b) projects with industry; and (c) training grants for personnel in agencies serving persons with disabilities. The Rehabilitation Act of 1973 (P.L. 93–112) revised the authority for special projects by deleting provisions for special grants to serve persons with mental retardation and instead targeting such funds on clients with the most severe disabilities.

Amendments to the Act in 1974 (P.L. 93–516) authorized the convening of a White House Conference on Handicapped Individuals. The purpose of this conference was to explore the problems faced by Americans with disabilities and develop administrative and legislative recommendations for addressing these problems. The Conference was held in 1977.

The 1984 amendments to the Act (P.L. 98–211) authorized the Commissioner of RSA to make grants to public or private organizations for two additional purposes: (a) special projects and demonstrations related to spinal cord injuries; and (b) research and evaluation projects related to the preparation of youth with disabilities for the labor force. These latter projects were to be conducted collaboratively by education agencies, business and industry, labor and vocational rehabilitation agencies.

The 1986 amendments (P.L. 99–506) authorized the development of a model statewide transitional planning services program in a New England state, under which referrals would be made two years prior to a student's completion of school. The project then would develop a transitional plan and provide case management services to track each individual.

6. *National Council on Disability.* The Rehabilitation Act Amendments of 1978 (P.L. 95–602) established a 15–member National Council on the Handicapped. Council members were to be appointed by the President to represent consumers, national organizations, service providers and administrators, researchers, and business and labor groups. The Act required that the Council membership include at least five persons with disabilities, their parents or guardians.

The 1984 amendments (P.L. 98–221) removed the Council from the Department of Education and established it as an independent agency within the federal government. The 1986 amendments (P.L. 99–506) required the Council to report annually to Congress regarding the progress that had been made in the implementation of the recommendations made in its initial report, Toward Independence, which was released in early 1986. In addition, the name of the council was changed to the National Council on Disability.

7. *Supported Employment.* The Rehabilitation Act Amendments of 1986 (P.L. 99–506) added a new supplementary formula grant program under which the states were authorized to conduct interagency collaborative projects to provide supported employment services to persons with severe disabilities. Services under this new program were to include, but not be limited to (a) evaluation of rehabilitation potential; (b) the provision of skilled job trainers; (c) intensive training; (d) job development; (e) follow-up services; (f) regular observation of the person at the job site; and (g) other services needed to support the person in employment. These services were to be complementary to those offered under Title I of the Act (i.e., the basic state grant program).

8. *Comprehensive Independent Living Services.* The 1978 amendments (P.L. 95–602) revised the Rehabilitation Act of 1973 by adding a new Title VII, entitled "Comprehensive Services for Independent Living." This new title authorized (a) grants to states for comprehensive services (Part A); (b) discretionary grants to support centers for independent living (Part B); and (c) grants for services to older persons with blindness (Part C). Also included in the new Title VII was authority to establish protection and advocacy systems for persons with severe disabilities (Part D).

TECHNOLOGY ASSISTANCE ACT

A. Overview

Prior to 1988, the principal federal sources of support for the development and dissemination of disability-related technology were the research authorities under the Education of the Handicapped and Rehabilitation Acts, as well as the Instructional Media and Captioned Film program. The Technology Related Assistance for Individuals with Disabilities Act of 1988 (P.L. 100–407) established several new, separate grant programs to facilitate the development and distribution of assistive technologies for use by persons with disabilities. The principal aim of the legislation was to foster the development of new and better assistance devices/aids to help persons with disabilities live normal, productive lives, and to help close the gap between technological innovations and the actual use of such technologies by such individuals.

B. Major Programs Affecting Persons with Disabilities

1. ***State Grants.*** Under Title I of the "Technology Related Assistance for Individuals with Disabilities Act of 1988" (TECH Act), project grants are authorized to assist the states in developing and implementing "consumer-responsive comprehensive statewide programs of technology-related assistance."

These grants are awarded on a competitive basis by the U.S. Department of Education to help states support (a) the establishment of model systems to deliver assistive technological devices and services; (b) the completion of a statewide needs assessment; (c) the establishment and maintenance of statewide and community-based support groups; (d) public awareness campaigns; (e) training and technical assistance activities related to the use of assistive technological devices and services; (f) the creation of a system through which consumers and their families can access information concerning technology-related assistance; (g) the development of cooperative interstate agreements to improve access to technological devices and services; and (h) any other activities necessary to develop, implement or evaluate a statewide program of technology-related assistance. A maximum of one grant per state may be awarded. Through FY 1991, such grants had been awarded to 31 states, and Department of Education plans called for awarding such grants to 10 additional states in FY 1992. FY 1991 appropriations (est.): $16.8 million.

References: Technology-Related Assistance for Individuals with Disabilities Act of 1988, P.L. 100-407. 29 U.S.C. 2201-2217. C.F.D.A.: 84.224.

2. ***Projects of National Significance.*** Title II authorizes a number of nationwide grant programs and studies related to technological devices and services for people with disabilities. The legislation instructs the Secretary of Education to conduct a study of the appropriateness of establishing a national information and referral network on assistive devices/services and, if necessary, to enter into a contract or cooperative agreement to establish and operate such a network.

The Secretary also is authorized to make funds available to stimulate improved access to technological devices and services. First, contracts or cooperative agreements may be awarded to non-profit or for-profit entities to address the training needs of individuals with disabilities and their families and to develop, demonstrate, disseminate and evaluate material/curricula for use in conducting such training. Second, grants may be awarded to institutions of higher education "...to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities." And third, grants or contracts may be awarded to non-profit and for-profit entities to carry out a variety of public awareness activities.

In addition, the TECH Act includes provisions under Part D of Title II authorizing grants, contracts and cooperative agreements to cover the cost of establishing and operating demonstration and innovation projects dealing with technology-related assistance. The three types of projects that may be supported under this authority are (a) model projects for delivering technological devices and services; (b) model research and development projects; and (c) income-contingent direct loan demonstration projects. FY 1991 appropriations (est.): $1.4 million.

Reference: Technology-Related Assistance for Individuals with Disabilities Act of 1988, P.L. 100–407. 29 U.S.C. 2231–2271. C.F.D.A.: 84.231.

C. Legislative History

The Technology-Related Assistance for Individuals with Disabilities Act was enacted by Congress and signed into law by President Ronald Reagan in August, 1988. The establishment of a separate statutory authority for this purpose signaled the growing importance of harnessing modern technology to meet the needs of persons with physical, mental and sensory disabilities.

HELEN KELLER NATIONAL CENTER ACT

The Helen Keller National Center for Deaf-Blind Youth and Adults, authorized by the Helen Keller National Center Act, is responsible for (a) demonstrating methods of providing intensive, specialized services needed to rehabilitate deaf-blind individuals and training professional and allied personnel to deliver such services; (b) conducting research into the problems of rehabilitating deaf-blind individuals; and (c) supporting related activities to expand or improve public understanding of deaf-blind individuals.

Until 1984, the Helen Keller National Center was authorized under Section 313 of the Rehabilitation Act. When the Act was amended in 1984 (P.L. 98–221), Section 313 was repealed and enacted as a free-standing statute. According to the new authorization, the Secretary of Education is instructed to continue to administer the program in the same manner it was administered under Section 313 of the Rehabilitation Act. Among the reasons cited for establishing a separate authority for the Center were (a) deaf-blindness is among the most severe forms of disability; (b) due to the rubella epidemic of the 1960s and recent medical advances, the lives of many deaf-blind individuals who might not otherwise have survived, have been sustained;

and (c) there is a dearth of trained personnel and adequate facilities to meet the needs of this population. FY 1991 appropriations: $4.6 million.

References: Helen Keller National Center Act, P.L. 98–221, as amended by P.L. 99–506. 29 U.S.C. 1905. C.F.D.A.: N/A.

JAVITS-WAGNER-O'DAY ACT

The Wagner-O'Day Act of 1938, as amended, establishes a program under which federal agencies may procure selected commodities and services from qualified workshops serving individuals with blindness and other severe disabilities. The program's objective is to increase employment opportunities for such individuals. Procurement is directed by the 15–member Committee for Purchase from the Blind and Other Severely Handicapped. The Committee is responsible for (a) determining which commodities and services are suitable for procurement from qualified nonprofit agencies; (b) publishing a list of such goods and services; (c) determining the fair market price for items/services on the procurement list and revising prices as market conditions change; and (d) promulgating necessary rules and regulations to implement the Act.

The Wagner-O'Day Act of 1938 originally authorized purchase from workshops for persons with blindness. Amendments to the Act in 1971 (P.L. 92–28, the Javits-Wagner-O'Day Act) extended the authority to workshops for other persons with severe disabilities. P.L. 92–28 defined the term "severely handicapped" to mean: "an individual or class of individuals under a physical or mental disability, other than blindness, which ... constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment." The 1971 Act, however, specified that preference would be given to purchases from workshops for persons with blindness through December 31, 1976.

Under the 1971 legislation, the Committee was to be composed of 14 persons—11 representatives of designated federal agencies and 3 representative of the general public. The 1974 amendments to the Act added a fifteenth member to the Committee. The Act specified that the additional member was to be a private citizen "conversant with the problems incident to the employment of other severely handicapped individuals."

The day-to-day management of Wagner-Javits-O'Day procurement contracts is carried out by two national, non-profit organizations: National Industries for the Blind (NIB) and NISH (formerly known as National Industries for the Severely Handicapped). During FY 1991, NIB managed procurement contracts totalling $201.8 million on behalf of 99 workshops serving individuals who are blind. NISH during the same fiscal year administered contracts worth a total of $229.75 million on behalf of 398 workshops and other rehabilitative facilities serving individuals with severe disabilities.

References: Wagner-O'Day Act of 1938, as amended. P.L. 92–28, as amended by P.L. 93–76, and P.L. 93–358. 41 U.S.C. 46–48c. C.F.D.A.: N/A.

RANDOLPH-SHEPPARD ACT

The Randolph-Sheppard Act authorizes a program designed to provide gainful employment for individuals with blindness operating vending facilities on federal property. The program was first established in 1936 (P.L. 74–732). Authority for blind-operated vending facilities later was expanded under the Vocational Rehabilitation Act of 1954 (P.L. 83–565) and the Randolph-Sheppard Act Amendments of 1974 (P.L. 93–516).

The 1974 amendments (a) extended the scope of the Act's coverage to federal property operated by any federal department, agency or instrumentality and provided a priority for vendors who are blind; (b) established guidelines for the operation of the program by state licensing agencies; (c) required coordination among the agencies responsible for implementing the program; (d) established administrative and judicial procedures to assure fair treatment of blind vendors, state licensing agencies and the federal government; (e) required stronger federal administration and oversight of the program by the Rehabilitation Services Administration; and (f) permitted income from vending machines in direct competition with blind vendors to accrue to the blind vendor, or to the state licensing agency for the purpose of establishing a fund for sick leave, vacation and retirement benefits for blind vendors. The gross receipts of Randolph-Sheppard vending facilities totalled $388.8 million during FY 1990.

References: Randolph-Sheppard Act of 1938. P.L. 83–565 and P.L. 93–516. 20 U.S.C. 107. C.F.D.A.: N/A.

MISCELLANEOUS

INTERNAL REVENUE CODE

Enactment of the Tax Reform Act of 1986 (P.L. 99–514) marked the first comprehensive overhaul of the U.S. Tax Code in more than thirty years. In general, the 1986 Act significantly lowered individual and corporate tax rates in exchange for the elimination or reduction of numerous special tax deductions, credits and preferences that had been authorized over the years. However, the Internal Revenue Code still contains several special tax credits and deductions relating to the needs of persons with disabilities.

For citizens with disabilities, P.L. 99–514 contained both favorable and unfavorable provisions. Some special exemptions were either eliminated or scaled back, while others were expanded.

The following is a brief rundown on provisions in the current tax code which have a differential impact on individuals with physical and mental disabilities.

Personal Exemption for Individuals who are Elderly or Blind. P.L. 99–514 repealed the additional personal exemption for persons who are elderly or blind and replaced it with an extra standard deduction. The intent was to ensure that taxpayers who are elderly or blind and do not itemize their deductions pay no more taxes than they would have under prior law. In addition to the new standard deduction for non-itemizers ($5,000 on joint returns: $3,000 for single taxpayers, and $4,400 for single heads of households), taxpayers who are blind or elderly and fall into this category receive an additional deduction of $750 in the case of a single person or a head of household, and an additional $600 in the case of a married taxpayer (whether filing jointly or separately). A person who is both elderly and blind is entitled to have his/her special standard deduction doubled (i.e., either $1,200 or $2,500 depending on the individual's marital status).

Attendant Care. Under the revised Internal Revenue Code, an employee with a severe disability may deduct the cost of on-the-job attendant care and other services necessary to permit him/her to work. This deduction was not authorized under the tax code prior to 1986.

Charitable Deductions. The Tax Reform Act of 1986 eliminated the charitable deduction for persons who choose not to itemize their deductions. Charitable contributions remain fully deductible, however, for taxpayers who itemize their deductions.

Medical Expense Deductions. Prior to the passage of the 1986 act, a taxpayer who itemized deductions was permitted to write off unreimbursed medical expenses to the extent that such expenses exceeded 5 percent of his/her adjusted gross income. P.L. 99–514 raised the threshold of deductibility from 5 to 7.5 percent of a taxpayer's adjusted gross income, thus reducing the medical expenses a taxpayer (including a taxpayer with a disability) could write off.

Capital expenditures under prior law could be deducted as medical expenses to the extent they were part of necessary medical care and exceeded the increased value added to the taxpayer's property. These expenses could include costs incurred in modifying an automobile to accommodate a wheelchair or to complete renovations necessary to eliminate barriers in the residence of an individual with a disability. The conference report on the 1986 tax bill made it clear that Congress wanted the Internal Revenue Service to continue treating capital costs of accommodations for individuals with disabilities as deductible medical expenses.

The Disabled Access Credit. A new tax incentive was added under the Omnibus Budget Reconciliation Act of 1990 (OBRA-90; P.L. 101–508) to encourage small businesses to comply with the requirements of the Americans with Disabilities Act. Under Section 44 of the Internal Revenue Code (as added by Section 11611 of OBRA-90), an eligible small business—i.e., a business that had gross receipts of less than $1,000,000 in the preceding taxable year or employs thirty (30) or fewer full-time workers—is permitted to claim a tax credit of 50 percent of the cost of "eligible access expenditures" of between $250 and $10,250. The maximum tax credits that a firm may take is $5,000 during any tax year.

The term "eligible access expenditures" is defined as "amounts paid or incurred by an eligible small business for the purpose of enabling small businesses to comply with applicable requirements..." of the ADA. Included in this definition are expenditures for:

- removing architectural, communication, physical or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities;
- providing qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

- providing qualified readers, taped texts, and other effective methods of making visually delivered material available to individuals with visual impairments;
- acquiring or modifying equipment or devices for individuals with disabilities; and
- providing other similar services, modifications, materials or equipment.

All expenditures must be "reasonable" and must meet standards promulgated by the Internal Revenue Service, with the concurrence of the Architectural and Transportation Barriers Compliance Board.

The Disabled Access Credit may be carried forward for up to 15 years and back for three years. However, a credit may not be claimed for any tax year prior to the effective date of the legislation (November 5, 1990).

Removal of Architectural and Transportation Barriers. Prior law temporarily allowed taxpayers to deduct up to $35,000 of qualifying expenses in places of business for the removal of architectural and transportation barriers to individuals who are elderly or disabled. This provision, however, was due to expire after tax year 1985. P.L. 99–514 made this provision a permanent part of the tax code. An amendment to this section of the Internal Revenue Code (Section 190) reduces the maximum tax deduction from $35,000 to $15,000. Under Section 190 of the Code, a deduction of up to $15,000 is allowed for making a facility or public transit vehicle more accessible to and usable by individuals with disabilities. The deduction may not be used for expenses incurred in new construction, the complete renovation of a facility or public transit vehicle, or for the normal replacement of depreciated property. In order for expenses to be considered deductible, accessibility standards established under Section 190 must be met.

Adoption Expenses. Under prior law, an itemized deduction of up to $1,500 was allowed for fees and other expenses incurred in adopting a child with special needs (i.e., a child with a disability or another youngster eligible for adoption assistance payments under Section 222 of the Social Security Act). P.L. 99–514 repealed deductions for itemized adoption expenses. Instead, the authority for adoption assistance under Title IV-E of the Social Security Act was expanded. These changes became effective in 1987.

Low Income Housing. A new tax credit was added under P.L. 99–514 for owners of rental housing projects occupied by individuals and families with low incomes. This exception to the general policy of eliminating real estate tax shelters was intended to offer private developers an inducement to invest in low income housing projects, including specialized and integrated housing units for individuals with disabilities.

The tax credit was initially scheduled to expire on December 31, 1987, but subsequently was extended through calendar years 1989, 1990 and 1991 under the provisions of the Technical Corrections and Miscellaneous Revenue Act of 1988 (P.L. 100–647), the Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239) and the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508), respectively. The expiration date of this tax credit was extended once again for an additional six months (i.e., through June 30, 1992) under P.L. 102–227, which was signed into law on December 11, 1991.

Before a developer/owner may qualify for this special tax credit, at least 20 percent of the units in a project must be occupied by persons with incomes below 50 percent of the median income for the area, or 40 percent of the occupants must have incomes below 60 percent of the median area income. Both income levels are to be adjusted to take into account family size.

The credit is 9 percent of the annual value of units occupied by low income tenants who are not benefiting from other federal housing subsidies. It is available for 10 years with annual inflationary adjustments. For buildings benefiting from other types of federal subsidies, the credit is 4 percent. If such units are converted to alternative uses within a period of 15 years, the credit must be paid back, with penalties.

Targeted Jobs Tax Credit. (See discussion under "Employment" section of this report).

Foster Care Payments. Under the tax code prior to 1986, a foster parent was permitted to exclude from his/her gross income certain expenses associated with caring for a foster child under age 19 who had been placed by a government agency or a state-licensed, tax-exempt child placement agency. This exclusion also applied to certain "difficulty-of-care" payments made on behalf of children with disabilities in foster homes, provided the child was cared for in a home serving no more than ten children during the tax year. To qualify for this exclusion, foster parents had to account for all expenses incurred on behalf of each foster child under their care. These provisions were initially added to the Code as a rider to the Periodic Payments Settlement Act of 1982 (P.L. 97–473).

The Tax Reform Act of 1986 expanded the 1982 provisions by deleting the age restriction on exclusion of care expenses from a foster parent's gross income, provided such payments, including "difficulty-of-care" payments, were made on behalf of recipients in homes caring for five or fewer adults. The purpose of this provision was to assure equal tax treatment of foster families serving children and adults, including individuals with mental and physical disabilities.

The joint conference committee on the legislation made it clear that the exclusion was to apply only to individuals providing care in their own homes to adults placed by a responsible state, county or municipal agency. It does not apply to operators of board and care homes.

P.L. 99-514 also eliminated the requirement that foster parents maintain detailed expenditure records as a condition of obtaining the exclusion. The effective date of the foster care provisions was January 1, 1986.

Lobbying by Public Charities. Under the provisions of the Tax Reform Act of 1976 (P.L. 94-455), a more precise delineation of the restrictions on lobbying by tax exempt organizations was spelled out in the federal tax code. Under prior law, charitable organizations, exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code were not permitted to devote any "substantial part" of their activities to "propaganda" or other attempts to influence legislation. This statutory test, however, was so vague that IRS was widely criticized for capricious and inequitable enforcement.

Effective January 1, 1977, P.L. 94-455 permitted charitable organizations to either elect to remain under the "substantial part" test or be covered under a new expenditures test. Under the new provisions, a sliding scale limitation on overall lobbying activity was established—ranging from 20 percent of the annual expenditures of organizations with budgets of under $500,000 to $225,000 plus ten percent of all outlays over $1.5 million for organizations with annual budgets exceeding $1.5 million. Organizations electing this new procedure were required to disclose their annual lobbying expenditures.

In addition, instead of having the withdrawal of tax exempt status as the only penalty, the 1976 law included authority to impose an excise tax for minor violations. Loss of exemption was reserved for sustained and excessive violations. What constitutes lobbying activities by tax exempt organizations also was spelled out in the Act. Final regulations implementing the lobbying provisions of the Tax Reform Act of 1976 were published by the Internal Revenue Service on August 31, 1990 (55 FR 35579).

References: Internal Revenue Code, as amended by P.L. 94-455, P.L. 95-30, P.L. 95-600, P.L. 97-248, P.L. 97-473, P.L. 99-514 and P.L. 101-508.

ENERGY CONSERVATION AND PRODUCTION ACT

The Energy Conservation and Production Act of 1976 (P.L. 94–385) authorized a program to assist low income persons, particularly persons who are elderly or disabled, to weatherize their dwellings. Up to $400 per dwelling was made available to insulate homes. To the maximum extent feasible, volunteers and trainees under Comprehensive Employment and Training Act programs, and other public services employees, were to be used to install the insulation. Average expenditures for materials, program support and labor costs were subsequently increased to $1,600, with no more than 10 percent earmarked for administrative expenses.

A low income household is defined in the Act as one where the combined income level is at or below 125 percent or 150 percent of the federal poverty level, depending on the option selected by the state.

A "handicapped individual" is defined in P.L. 94–385 as any person eligible to receive benefits under the Rehabilitation Act of 1973, the Developmental Disabilities Act, and Titles II and XVI of the Social Security Act. Individuals eligible for cash assistance programs and those whose income falls below the poverty level, as determined by the Office of Management and Budget, are to be considered eligible low income persons. FY 1991 appropriations (est.): $199.0 million.

References: Energy Conservation and Production Act, as amended by P.L. 94–385, P.L. 95–91, P.L. 95–619, P.L. 96–294 and P.L. 98–558, 42 U.S.C. 6851, C.F.D.A.: 81.042.

NATIONAL ENERGY CONSERVATION POLICY ACT

The National Energy Conservation Policy Act (P.L. 95–619) authorizes a program to assist schools, hospitals and public care institutions to plan and institute energy-saving measures. The program is divided into two phases: (1) conducting energy "audits" to assess the conditions or needs of an institution's buildings; and (2) technical assistance and financial aid for planning and installing energy conservation systems. Buildings constructed after April 20, 1977 are not eligible to participate in the program. Generally, the federal government matches administrative costs on a fifty-fifty basis.

The program for public and nonprofit schools and hospitals authorizes a full range of activities including (a) initial energy audits; (b) identification and implementation of energy-saving, maintenance and operating procedures; and (c) evaluation, acquisition and installation of energy-saving devices or systems. The program for public care institutions (including residential facilities for persons with mental retardation and mental illness) is limited to: (a) energy conservation audits; (b) assistance in developing facility maintenance and operating procedures to reduce energy costs; and (c) technical assistance to determine what energy saving systems or devices should be installed. Both programs are voluntary and are approved, funded and monitored by state energy offices. FY 1991 appropriations (est.): $14.9 million.

References: National Energy Conservation Policy Act. P.L. 95–619. 42 U.S.C. 6371. C.F.D.A.: 81.052.

LOW INCOME HOME ENERGY ASSISTANCE ACT

The Home Heating Assistance Act of 1979 (P.L. 96–126) authorized an emergency program of federal payments to states and individuals to offset the impact of sharply increasing home heating costs on low-income persons, including recipients of public assistance and Supplemental Security Income benefits. The program was made permanent under the Crude Oil Windfall Profits Tax Act of 1980 (P.L. 96–223). Title III of the Windfall Profits Tax Act authorized the Low Income Energy Assistance Program, providing tax credits and direct payments to low-income individuals for the purpose of assisting them in meeting increased home heating costs. Other energy needs, such as the increased cost of transportation due to rising gasoline costs, were not covered by this legislation.

In 1981, Congress converted the authority into a state block grant program under the "Low Income Home Energy Assistance Act," which was included in the Omnibus Budget Reconciliation Act of that year (P.L. 97–35). Households with income not exceeding the greater of 150 percent of the federal poverty level or 60 percent of the state's median income were declared eligible to participate in the program, along with households made up of individuals receiving AFDC, SSI, Food Stamps or certain income-tested veterans benefits. FY 1991 appropriations (est.): $1.610 billion.

References: Home Heating Assistance Act of 1979, as amended. P.L. 96–126 and P.L. 96–223. Low Income Home Energy Assistance Act of 1981, P.L. 97–35, as amended by P.L. 98–558, P.L. 99–425 and P.L. 101–501. 42 U.S.C. 8621. C.F.D.A.: 93.028.

COPYRIGHT ACT

The first comprehensive revision in the federal copyright law since 1909 was enacted in 1976 (P.L. 94–553).

In addition to extending copyright privileges, allowing increased royalties for songwriters and affording authors and artists greater protection, the 1976 amendments contained the following provisions affecting individuals who are blind or deaf:

- Broadcasting performances of nondramatic literary works, directed primarily at audiences who are blind or deaf, are not considered an infringement of copyright, provided (a) the transmission is made without any purpose of commercial advantage; and (b) the broadcasting facilities are operated by a governmental body, a noncommercial educational station, a radio subcarrier or a cable system.

- Broadcasting a single performance of a dramatic literary work, published at least ten years before the performance date and directed primarily at individuals with blindness, is not considered an infringement of copyright, provided (a) the transmission is made without any purpose of commercial advantage; (b) the broadcast is made through the facilities of a radio subcarrier; and (c) no more than one performance of the same work is completed by the same performers or under the auspices of the same organization.
- Under specified circumstances, up to ten copies or phonorecords of copyrighted materials for broadcast by radio information service carriers may be made by a nonprofit organization for transmittal to persons who are blind or deaf;
- Braille copies are exempted from the statutory restriction against the importation of nondramatic, English language works not produced in the United States or Canada;
- The Register of Copyrights is required to develop forms and procedures to obtain clearance to reproduce nondramatic literary works in braille or recorded form. This amendment is intended to expedite the production and distribution of books in braille and recorded form by the Division of the Blind and Physically Handicapped in the Library of Congress.

References: Copyright Act of 1976, P.L. 94–553 17 U.S.C. 101 et. seq.

AGRICULTURAL RESEARCH FACILITIES ACT

The "Food, Agriculture, Conservation and Trade Act of 1990" amended the Agricultural Research Facilities Act to authorize demonstration grants to provide on-the-farm agricultural education to individuals with disabilities and their families who are engaged in farming and farm-related occupations. Grants under this new authority may be made to State Agricultural Extension Service agencies or non-profit, community-based service organizations to initiate, expand or sustain programs that:

- furnish direct education or assistance to individuals with disabilities who are engaged in farming and farm-related occupations;
- provide on-the-farm technical advice concerning the design, fabrication and use of equipment, machinery and tools and the modification of farm work sites and living arrangements for farmers with disabilities;

- involve community and health care professionals in the early identification of farm and rural families that are in need of disability-related assistance;

- provide specialized education programs to enhance the competencies of rural agricultural professionals, rehabilitation and health care workers, vocational counselors and other providers of services to farmers with disabilities and their families; and

- mobilize rural volunteer resources to promote cost-effective methods of accommodating disabilities in farming and farm-related activities.

Grants of at least $150,000 will be awarded during FY 1991–1996. The legislation authorizes $3 million annually for this purpose during FY 1991 and FY 1992 and $5 million for each fiscal year between FY 1993 and FY 1996.

The Secretary of Agriculture also is instructed to make one grant to a national, non-profit disability organization to furnish technical assistance, training, information dissemination and other services to support the activities of community-based organizations that are providing on-site rural rehabilitation and assistive technology to individuals with disabilities and their families. $1 million annually is authorized to carry out this national training and technical assistance project during FY 1991–1996.

Reference: Agricultural Research Facilities Act, as amended by P.L. 101-624. 7 U.S.C. 5933. C.D.F.A.: N/A.

APPENDIX A

LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
EDUCATION										
Elementary & Secondary Education Act—ESEA Amendments of 1965	H.R. 2362	89–143	89–146	3/26/65	4/9/65	4/11/65	89–10	E&L	L&HR	U.S. Department of Education
Education Amendments of 1972	S. 659 H.R. 7248	92–1085	92–604	11/5/71	3/1/72	6/23/72	92–318			
General Education Amendments	H.R. 12253	—	93–674	1/28/74	2/5/74	4/18/74	93–269			
Education Amendments of 1976	S. 2657 H.R. 12835	94–1085	94–882	8/31/76	8/27/76	9/12/76	94–482			
Education Amendments of 1978	S. 1753 H.R. 15	95–1137	95–856	7/13/78	8/24/78	11/1/78	95–561			
Captioned Films for the Deaf Act	S. 2232	89–1034	89–649	10/5/65	8/31/65	10/19/65	89–258			
Elementary & Secondary Education Act Amendments of 1966	S. 3046 H.R. 13161	89–1814	89–1674	10/6/66	10/7/66	11/3/66	89–750			
ESEA Amendments of 1967	H.R. 7819	90–188	90–726	5/25/67	12/11/67	1/2/68	90–247			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No. House	Report No. Senate	Date of Passage House	Date of Passage Senate	Public Law Date Signed	Public Law No.	Committee House	Committee Senate	Federal Administering Agency
ESEA Amendments of 1970	H.R. 514	91–114	91–634	4/23/69	2/19/70	4/13/70	91–230			
Education Amendments of 1974	S. 1539 H.R. 69	93–805	93–763	3/27/73	5/20/73	8/21/73	93–380			
Handicapped Children's Early Education Assistance Act	H.R. 18763	90–1793	90–1386	9/16/68	9/30/68	10/12/68	90–538			
Education for All Handicapped Children Act of 1975	S. 6 H.R. 7217	94–332	94–168	7/29/75	6/18/75	11/29/75	94–142			
Authorizing Education Programs for Handicapped Persons through FY 1982	S. 725 H.R. 6692	95–268	95–124	5/9/77	5/23/77	6/17/77	95–49			
Education of the Handicapped Amendments of 1983	S. 134 H.R. 3435	98–410	98–191	6/27/83	11/17/83	12/2/83	98–199			
Education of the Handicapped Amendments of 1986	S. 2294 H.R. 5220	99–860	99–315	9/22/86	6/6/86	10/8/86	99–457			
Education of the Deaf Act of 1986	S. 1874	—	99–290	6/26/86	5/6/86	8/4/86	99–371			
Higher Education Act Amendments of 1986	S. 1965 H.R. 3700	99–383	99–296	6/17/86	6/3/86	10/17/86	99–498			
Vocational Education Act	H.R. 4955	88–393	88–553	12/12/63	12/13/63	12/18/63	88–210			

Carl D. Perkins Vocational Education Act	H.R. 4164	98–612	—	10/4/84	10/3/84	10/19/84	98–524			
August F. Hawkins—Robert Stafford Elementary and Secondary School Improvements Amendments of 1988	S. 573 H.R. 5	100–95	100–222	5/21/87	12/1/87	4/28/88	100–297			
Handicapped Programs Technical Amendments Act of 1988	S. 2821	—	—	9/26/88	10/12/88	11/7/88	100–630			
Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990	S. 1109 H.R. 7	101–41	101–221	5/9/89	4/5/90	9/25/90	101–392			
The Education of the Handicapped Act Amendments of 1990	S. 1824 H.R. 1013	—	101–204	6/18/90	11/16/89	10/30/90	101–476			
Individuals with Disabilities Education Act Amendments of 1991	S. 1106 H.R. 3053	102–198	102–84	9/11/91	6/24/91	10/7/91	102–119			
EMPLOYMENT										
Job Training Partnership Act	S. 2036	97–469	—	10/1/82	9/30//82	10/13/82	97–300	E&L	L&HR	Employment and Training Administration, U.S. Department of Labor
Job Training Partnership Act Amendments of 1986	S. 2069 H.R. 5185	99–754	99–317	8/11/86	6/13/86	10/16/86	99–496			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
Fair Labor Standards Act of 1938										
Fair Labor Standards Act Amendments of 1966	H.R. 13712	89–1366	89–1487	9/11/66	9/14/66	9/23/66	89–601			
Fair Labor Standards Act Amendments of 1986	S. 2884 H.R. 5614	—	—	10/1/86	9/27/86	10/16/86	99–486			
Tax Reform Act of 1986	H.R. 3838	99–426	99–313	12/18/86	6/24/86	10/22/86	99–514			
Fair Labor Standards Act Amendments of 1989	S. 1182 H.R. 2710	101–260	101–117	11/1/89	11/8/89	11/17/89	101–157	E&L	L&HR	Division of Wages and Hours, U.S. Department of Labor
HEALTH										
Social Security Act Amendments of 1963	H.R. 7544	88–637	88–551	8/27/63	10/12/63	10/24/63	88–156	E&C, W&M	Fin	Social Security Administration, U.S. Department of Health and Human Services
Social Security Amendments of 1964	H.R. 10473	88–1301	88–1517	5/27/64	8/31/64	13/10/64	88–641			
Social Security Amendments of 1964	H.R. 9393	88–1279	88–1516	4/30/64	8/31/64	10/13/64	88–650			

Social Security Amendments of 1965	H.R. 6675	89–213	89–404	4/8/65	7/9/65	7/30/65	89–97
Social Security Amendments of 1967	H.R. 12080	90–544	90–744	8/17/66	11/22/66	1/2/67	90–248
Social Security Amendments of 1972	H.R. 1	92–231	92–1230	10/17/72	10/5/72	10/30/72	92–603
Intermediate Care Amendments of 1971	H.R. 10604	92–590	92–552	11/17/71	12/4/71	12/28/71	92–223
Social Security Benefit Increase	H.R. 15390	92–1128	92–1215	6/27/72	6/30/72	7/1/72	92–336
Maternal & Child Health Amendments	H.R. 9410	92–1143	—	6/30/72	6/30/72	7/10/72	92–345
Maternal & Child Health Amendments	H.R. 8410	93–267	93–249	6/13/73	6/27/73	6/1/73	93–53
Social Security Amendments of 1973	H.R. 11333	93–627	—	11/15/73	12/21/71	12/31/73	93–233
Social Security Amendments of 1973	H.R. 1404	95–80	95–298	3/21/73	6/28/73	6/30/73	95–59
To provide for reimbursement for rural health clinic services under the Medicare and Medicaid programs	H.R. 8422	95–548	—	10/17/73	10/19/73	12/13/73	95–210
Social Security Financing Amendments of 1977	H.R. 9346	95–702	—	10/27/77	11/4/77	12/20/77	95–216

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
Medicare End Stage Renal Disease Program Amendment	H.R. 8423	95–549	95–714	9/12/77	4/10/77	6/13/77	95–292			
Social Security Amendments of 1983	H.R. 1900	98–25	98–23	3/9/83	3/23/83	4/20/83	98–21			
Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963	S. 1576	88–694	88–694	9/10/63	5/27/63	10/31/63	88–164	E&C	L&HR	Alcohol, Drug Abuse and Mental Health Administration, U.S. Department of Health and Human Services
Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1965	H.R. 2985	89–278	89–366	5/4/65	6/28/65	8/4/65	89–105			
Mental Health Amendment of 1967	H.R. 6431	90–212	90–294	5/17/67	6/8/67	6/24/67	90–31			
To provide grants for construction of community mental health centers	S. 2523 H.R. 14086	91–735	91–583	12/16/69	12/11/69	3/13/70	91–211			
Special Health Revenue Sharing Act	S. 66 H.R. 4925	94–192	94–29	6/5/75	4/10/75	7/29/75	94–63			
Community Mental Health Centers & Biomedical Research Amendments	S. 2450	—	95–838	10/15/78	6/26/78	11/8/78	95–622			

Community Mental Health Centers Act Amendments of 1980	S. 1177	96–977	96–712	8/22/80	7/24/80	10/7/80	96–398			
Alcohol, Drug Abuse and Mental Health Amendments of 1984	S. 2303	98–1123	98–381	10/4/84	10/4/84	10/19/84	98–509			
Comprehensive State Mental Health Planning Act of 1986	S. 1744	—	99–380	10/17/86	8/12/86	11/14/86	99–660			
Public Health Service Act Hospital & Medical Facilities Amendments of 1964	H.R. 10041	88–1340	88–1274	5/25/64	8/1/64	8/18/65	88–443	E&C	L&HR	Public Health Service, U.S. Department of Health and Human Services
Community Health Service Extension Amendments of 1965	S. 510 H.R. 2986	89–249	89–117	5/3/65	3/11/65	8/5/65	89–109			
Heart Disease, Cancer and Stroke Amendment of 1965	S. 596 H.R. 2986	89–963	89–368	9/24/65	6/28/65	10/6/65	89–239			
Comprehensive Health Planning and Public Health Services Amendment of 1966, Partnership for Health	S. 3008 H.R. 18231	89–2271	89–1665	10/17/66	10/3/66	11/3/66	89–749			
Partnership for Health Amendments of 1967	H.R. 6418	90–538	90–724	9/20/67	11/6/67	12/5/67	90–174			
Establishment of National Eye Institute	H.R. 12843	90–1644	—	8/1/68	8/2/68	8/16/68	90–489			
Health Services & Facilities Amendment of 1968	H.R. 15758	90–1752	90–1454	7/22/68	7/27/68	10/15/68	90–574			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
To provide assistance in developing and administering lead-based paint elimination programs	H.R. 19172	91–1463	91–1432	10/5/68	12/17/68	1/13/69	91–695			
National Advisory Commission on Multiple Sclerosis Act	H.R. 15475	92–1185	92–1604	8/1/72	9/27/72	10/25/72	92–563			
Health Programs Extension Act of 1973	S. 1136	93–227	93–87	5/31/73	3/27/73	6/18/73	93–45			
Lead Based Paint Poisoning Prevention Amendment	S. 607	93–373	93–130	9/5/73	5/9/73	11/9/73	93–151			
National Research Act	H.R. 7724	93–224	93–381	5/31/73	9/11/73	7/12/73	93–348			
National Health Planning and Resources Development Act of 1974	S. 2994 H.R. 16204	93–1382	93–1285	12/13/74	11/25/74	1/4/75	93–641			
National Arthritis Act of 1974	S. 2854	—	93–1251	12/18/73	10/11/74	1/4/75	93–640			
Special Health Revenue Sharing Act	S. 66 H.R. 4925	94–192	94–29	6/5/75	4/10/75	7/29/75	94–63			
Health Research and Health Services Amendment of 1976	S. 988 H.R. 7988	94–498	94–509	10/20/75	12/11/75	4/22/76	94–278			

National Health Promotion and Disease Prevention Act of 1976	S. 1466 H.R. 12678	94–1007	94–330	4/7/75	7/30/75	6/23/76	94–317			
Biomedical Research and Related Programs, FY 1978	H.R. 4975	95–117	95–102	3/31/78	5/4/78	8/1/78	95–83			
Health Services Research Statistics and Technology Act of 1978	S. 2466 H.R. 12584	95–1190	95–839	9/25/78	8/9/78	11/9/78	95–623			
Health Services and Centers Amendments of 1978	S. 2474 H.R. 12370	95–1191	95–860	10/13/78	9/29/78	11/10/78	95–626			
Preventive Health Amendments of 1984	S. 2301	98–1063	98–393	10/1/84	9/28/84	10/30/84	98–555			
Health Research Extension Act of 1985	H.R. 2409	99–158	99–108	6/17/85	7/19/85	11/20/85	99–158			
Primary Care Amendments of 1985	S. 1282	99–157	99–104	3/5/86	7/19/85	4/24/86	99–280			
Omnibus Budget Reconcilation Act of 1987	S. 1920 H.R. 3545	100–391	—	10/29/87	12/10/87	12/22/87	100–203	Bud	Bud	N/A
Medicare Catastrophic Coverage Act of 1988	S. 1127 H.R. 2470	100–105	—	7/22/87	10/27/87	7/1/88	100–360	E&C,	Fin W&M	Health Care Financing Administration, U.S. Department of Health and Human Services
National Deafness and Other Communication Disorders Act of 1988	S. 1727 H.R. 3361	100–161	—	10/13/88	10/7/88	10/28/88	100–553		E&C	National Institutes of Health, U.S. Department of Health and Human Services

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
Health Omnibus Programs Extension Act of 1988	S. 2889 H.R. 5560	—	—	10/13/88	10/13/88	11/4/88	100–607			Public Health Service, U.S. Department of Health and Human Services
Technical Corrections and Miscellaneous Act of 1988	S. 2238 H.R. 4333	100–795	100–445	8/4/88	10/11/88	11/10/88	100–647	W&M	Fin	N/A
Medicare Catastrophic Coverage Repeal Act of 1989	H.R. 3607	—	—	11/8/89	11/8/89	12/13/89	100–234	W&M		Health Care Financing Administration, U.S. Department of Health and Human Services
Omnibus Budget Reconciliation Act of 1988	S. 1750 H.R. 3299	101–247	—	10/5/89	10/13/89	12/19/89	101–239	Bud	Bud	N/A
Vaccine and Immunization Amendments of 1990	S. 2629 H.R. 4238	101–611	101–390	7/23/90	10/12/90	11/3/90	101–502	E&C	L&HR	Public Health Service, U.S. Department of Health and Human Services
Omnibus Budget Reconciliation Act of 1990	S. 3209 H.R. 5835	101–881	—	10/16/90	10/19/90	11/5/90	101–508	Bud	Bud	N/A
Home Health Care and Alzheimer's Disease Amendments of 1990	H.R. 5112	101–612	—	7/23/90	10/23/90	11/15/90	101–557	E&C		Public Health Service, U.S. Department of Health and Human Services

Mental Health Amendments of 1990	S. 2628	—	101–389	10/23/90	8/4/90	11/28/90	101–639	E&C	L&HR	Alcohol, Drug Abuse and Mental Health Administration, U.S. Department of Health and Human Services
Medicaid Voluntary Contributions and Provider-Specific Tax Amendments of 1991	H.R. 3595	102–310	—	11/19/91	11/26/91	12/12/91	102–234	E&C	Fin	

HOUSING

Housing & Urban Development Act of 1970	H.R. 19436	91–1556	91–1216	12/3/70	12/8/70	12/31/70	91–609	BFUA	BHUA	U.S. Department of Housing and Urban Development
Housing and Community Development Act of 1974	S. 3066 H.R. 15361	93–1114	93–693	6/20/74	3/11/74	8/22/74	93–383			
Housing Authorizations Act of 1976	S. 3295 H.R. 12945	94–1091	94–749	5/26/76	4/27/76	8/3/76	94–375			
Housing Authorizations	H.R. 6655	95–236	95–175	5/11/77	6/7/77	10/12/77	95–128			
Housing & Community Development Amendments of 1978	S. 3084 H.R. 12433	95–1161	95–871	7/24/78	7/20/78	10/31/78	95–557			
Housing & Community Development Amendments of 1980	S. 2719	96–979	96–716	8/22/80	6/21/80	10/8/80	96–399			
Housing and Urban-Rural Recovery Act of 1983	H.R. 3959	98–375	98–275	11/16/83	11/17/83	11/30/83	98–181			
Housing and Community Development Act of 1987	H.R. 234	—	—	10/20/87	10/15/87	1/25/88	100–142			

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APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
Stewart B. McKinney Homeless Assistance Act	H.R. 558	100–10	—	3/5/87	4/9/87	7/22/87	100–77	BFUA, E&C		U.S. Department of Housing and Urban Development
Housing and Community Development Act of 1987	S. 825 H.R. 4	—	100–21	6/17/87	3/31/87	2/5/88	100–242	BFUA	BHUA	U.S. Department of Housing and Urban Development
Stewart B. McKinney Homeless Assistance Amendments Act of 1988	S. 2554 H.R. 4352	100–718	100–397	8/3/88	9/28/88	11/7/88	100–628	BFUA, E&C, W&M, VA, Agr	BHUA	U.S. Department of Housing and Urban Development
National Affordable Housing Act	S. 566 H.R. 1180	—	101–316	8/1/90	6/27/90	11/28/90	101–625	BFUA	BHUA	U.S. Department of Housing and Urban Development
INCOME MAINTENANCE										
Social Security Amendments of 1972	H.R. 1	92–231	92–1230	10/17/72	10/5/72	10/30/72	92–603	W&M	Fin	Social Security Administration U.S. Department of Health and Human Services
Social Security Amendments of 1973	H.R. 11333	93–627	—	11/15/73	12/21/73	12/31/73	93–233			
Supplemental Security Income Benefits	H.R. 13025	93–871	93–735	3/5/74	3/13/74	3/28/74	93–256			

Extend food stamp eligibility to SSI recipients	H.R. 15124	93–1081	—	6/18/74	6/20/74	7/8/74	93–335			
Supplementary Security Income Amendments	H.R. 14484	94–1296	—	6/28/76	30/6/76	14/7/76	94–365			
Supplementary Security Income Amendments	H.R. 10210	94–755	94–1265	7/20/76	9/29/76	10/20/76	94–566			
Supplementary Security Income Amendments	H.R. 13500	94–1210	94–1345	6/8/76	10/1/76	10/21/76	94–585			
Social Security Disability Amendments of 1980	H.R. 3236	96–100	96–408	9/6/79	1/30/80	7/9/80	96–265			
Social Security Amendments of 1983	H.R. 1900	98–25	98–23	3/9/83	3/23/83	4/20/83	98–21			
Social Security Disability Benefits Reform Act of 1984	H.R. 3755	98–618	98–466	3/27/84	5/22/84	10/9/84	98–460			
Employment Opportunities for Disabled Americans Act	H.R. 5595	99–893	99–466	9/30/86	10/8/86	11/10/86	99–643			

MISCELLANEOUS

Tax Extension Act of 1991	H.R. 3903	102–377	—	11/27/91	11/27/91	12/11/91	102–227	W&M		

NUTRITION

Extend food stamp eligibility to SSI recipients	H.R. 15124	93–1081	—	6/18/84	6/20/74	7/8/74	93–335	Agr	Agr	Food & Nutrition Service, U.S. Department of Agriculture

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
National School Lunch and Child Nutrition Act of 1974	S. 3459 H.R. 14354	93–1022	93–830	5/7/74	5/21/74	6/30/74	93–326			
National School Lunch Act and Child Nutrition Act of 1966, Amendments of 1975	H.R. 4222	94–68	94–259	4/28/75	7/10/75	10/7/75	94–105			
National School Lunch and Child Nutrition Act Amendment of 1977	S. 1420 H.R. 1139s	95–281	95–277	5/18/77	6/30/77	11/10/77	95–166			
Special Supplemental and Child Care Food Programs Extension	S. 3085 H.R. 12411	95–1153	95–1020 95–884	10/15/78	7/21/78	11/10/78	95–627			
Commodity Distribution Amendments of 1981	S. 884	97–106	97–126	10/22/81	9/18/81	12/22/81	97–98			
1987 Amendments of the Food Stamp Act	H.R. 3454	—	—	9/19/85	9/23/85	10/4/85	99–114			
Food Security Act of 1985	S. 2036	—	—	2/4/86	1/30/86	2/28/86	99–198			
Omnibus Drug Enforcement Education and Control Act	H.R. 4588	99–603	—	5/19/86	9/29/86	10/14/86	99–470			
Hunger Prevention Act of 1988	S. 2560	—	100–397	8/11/88	7/26/88	9/19/88	100–435			

Child Nutrition and WIC Reauthorization Act of 1989	S. 1484 H.R. 24	101–194	—	7/31/89	8/3/89	11/10/89	101–147	E&L	L&HR	Food and Nutrition Service, U.S. Department of Agriculture
RIGHTS										
Elimination of Architectural Barriers to Physically Handicapped	S. 222 H.R. 6589	90–1523	90–538	6/17/68	8/25/67	8/12/68	90–480			
To ensure that certain federally constructed facilities be constructed so as to be accessible to persons with physical handicaps	H.R. 14464	91–750	91–658	12/15/69	2/10/70	3/5/70	91-205			
Rights of the Blind and Other Physically Handicapped in D.C.	H.R. 11032	92–1005	92–1238	4/24/72	9/30/72	10/21/72	92–515			
Rehabilitation Amendments of 1973	H.R. 8070	93–244	93–318	6/5/73	7/18/73	9/26/73	93–112			
Rehabilitation Amendments of 1974	S. 4194 H.R. 17503	—	93–1297	11/26/74	11/26/74	12/7/74	93–516			
Developmentally Disabled Assistance & Bill of Rights Act	S. 462 H.R. 4005	94–58	94–160	4/10/75	6/2/75	10/4/75	94–103			
Education for All Handicapped Children Act of 1975	S. 6 H.R. 7217	94–332	94–168	7/29/75	6/18/75	11/29/75	94–142			
Public Building Cooperative Use Act of 1976	S. 865 H.R. 15134	94–1584	94–349	9/29/75	8/1/75	10/18/76	94–541			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

		Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
Category/Law	**Bill No.**	**House**	**Senate**	**House**	**Senate**	**Date Signed**	**No.**	**House**	**Senate**	
Legal Services Corporation Act Amendments of 1977	S. 1303 H.R. 6666	95–310	95–172	6/27/77	10/12/77	12/28/77	95–222			
To extend for three years the Commission on Civil Rights	S. 3067 H.R. 12432	95–1140	—	9/6/78	6/27/78	10/10/78	95–444			
Civil Service Reform Act of 1978	S. 2640 H.R. 11280	95–1403	95–969	9/13/78	8/24/78	10/13/78	95–454			
Rehabilitation, Comprehensive Services & DD Amendments	H.R. 12467	95–1149	—	5/16/78	9/21/78	11/6/78	95–602			
Child Abuse Prevention and Treatment and Adoption Reform Act of 1984	H.R. 1904	98–159	98–246	2/2/84	7/26/84	10/9/84	98–457			
Protection and Advocacy for Mentally Ill Individuals Act of 1986	S. 1726	99–39	99–34	10/17/85	10/10/85	10/30/85	99–139			
Education of the Handicapped Amendments of 1986	S. 2294	99–860	99–315	9/22/86	6/6/86	10/8/86	99–457			
Rehabilitation Act Amendments of 1986	H.R. 4021	99–571	99–388	5/7/86	9/8/86	10/21/86	99–506			

Developmental Disabilities Assistance and Bill of Rights Amendments of 1987	S. 1417	—	100–113	8/4/87	7/21/87	10/29/87	100–146			
Civil Rights Restoration Act of 1987	S. 557	—	100–64	3/2/88	1/28/88	3/1/88	100–259	L&HR		Civil Rights Division, U.S. Department of Justice
Child Abuse Prevention, Adoption, and Family Services Act of 1988	S. 1663 H.R. 1900	100–135	100–210	6/8/87	11/3/87	4/25/88	100–294	E&L	L&HR	Administration on Children and Families, U.S. Department of Health and Human Services
Fair Housing Act Amendments of 1988	H.R. 1158	100–711	—	6/29/88	8/2/88	9/13/88	100–430	Jud	Jud	U.S. Department of Housing and Urban Development
Protection and Advocacy for Mentally Ill Individuals Act Amendments of 1988	S. 2393	—	100–454	9/20/88	8/9/88	10/20/88	100–509		L&HR	Alcohol, Drug Abuse, and Mental Health Administration, U.S. Department of Health and Human Services
Telecommunications Accessibility Enhancement Act of 1988	H.R. 4992	100–1058	—	10/12/88	10/14/88	10/28/88	100–542	E&C, GO,HA		General Services Administration
Child Abuse Prevention Challenge Grant Reauthorization Act of 1989	S. 1455 H.R. 2087	101–113	—	7/11/89	9/20/89	10/25/89	101–126	E&L	L&HR	Administration on Children and Families, U.S. Department of Health and Human Services

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No.		Date of Passage		Public Law		Committee		Federal Administering Agency
		House	Senate	House	Senate	Date Signed	No.	House	Senate	
Americans with Disabilities Act	S. 933 H.R. 2273	101–485	101–116	5/22/90	9/7/89	7/26/90	101–336	E&L, E&C, PWT, Jud	L&HR	Equal Employment Opportunities Commission, U.S. Department of Justice, U.S. Department of Transportation, Federal Communications Commission
Television Decoder Circuitry Act of 1990	S. 1974 H.R. 4267	101–767	101–393	10/1/90	8/2/90	10/15/90	101–431	E&C	CST	Federal Communications Commission
Civil Rights Act of 1991	S. 1745 H.R. 1	102–40	—	11/7/91	10/30/91	11/21/91	102–166	E&L, Jud		
Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991	S. 1475	102–319	102–114	11/19/91	7/31/91	11/27/91	102–173	E&C	L&HR	
SOCIAL SERVICES										
Social Security Amendments of 1967	H.R. 12080	90–544	90–744	7/17/67	11/22/67	1/2/67	90–248			
Social Security Amendments of 1972	H.R. 1	92–231	92–1230	10/17/72	10/5/72	10/30/72	92–603			

Adoption Assistance and Child Welfare Act of 1980	H.R. 3434	96–136	96–336	8/2/79	10/29/79	6/17/80	96–272			
Social Services Amendments of 1974	H.R. 17045	93–1490	93–1356	12/9/74	12/17/74	1/4/75	93–647	W&M	Fin	Administration on Children and Families, U.S. Department of Health and Human Services
Social Services Amendments	H.R. 12455	94–903	94–857	3/16/76	3/20/76	9/7/76	94–401			
Child Care and Employment of Welfare Recipients Extension	H.R. 3387 (H.R. 2850)	95–439	95–456	6/18/78	10/17/78	11/12/78	95–171			
Revenue Act of 1978	H.R. 13511	95–1445	95–1263	8/10/78	10/10/78	11/6/78	95–600			
Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963	S. 1576	88–694	88–694	9/10/63	5/27/63	10/31/63	88–164	E&C	L&HR	Administration on Developmental Disabilities, U.S. Department of Health and Human Services
Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1965	H.R. 2985	89–278	89–366	5/4/65	6/28/65	8/4/65	89–105			
Mental Retardation Amendments of 1967	H.R. 6430	90–562	90–725	9/21/67	11/6/67	12/4/67	90–170			
Authorizing funds for increased facilities for mental retardation programs	S. 2846 H.R. 14237	91–1277	91–757	7/30/69	4/13/69	10/30/69	91–517			
Developmentally Disabled Assistance & Bill of Rights Act	S. 462 H.R. 4005	94–58	94–160	4/10/75	6/2/75	10/4/75	94–103			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No. House	Report No. Senate	Date of Passage House	Date of Passage Senate	Public Law Date Signed	Public Law No.	Committee House	Committee Senate	Federal Administering Agency
Rehabilitation, Comprehensive Services and DD Amendments	H.R. 12467	95–1149	—	5/16/78	9/21/78	11/6/78	95–602			
Developmental Disabilities Act Amendments of 1984	H.R. 5603	98–826	—	6/11/84	6/28/84	10/19/84	98–527			
Developmental Disabilities Act Amendments of 1987	S. 1417	—	100–113	8/4/87	7/21/87	10/29/87	100–146			
Older Americans Act Amendments of 1969	H.R. 11235	91–285	91–340	6/16/69	8/13/69	9/17/69	91–69	E&L	L&HR	ACTION
Domestic Volunteer Services Act of 1973	S. 1148	93–405	93–311	9/17/73	7/18/73	10/1/73	93–113			
Older Americans Amendments of 1975	S. 1425 H.R. 3922	94–67	94–255	4/8/75	6/26/75	11/28/75	94–135			
Domestic Volunteer Service Amendments of 1976	H.R. 12216	—	—	5/4/76	5/13/76	5/27/76	94–293			
Older Americans Act Amendments of 1979	S. 2850 H.R. 12255	95–110	95–855	5/15/78	7/24/78	10/18/78	95–478			
Domestic Volunteer Service Amendments of 1984	S. 1129	98–161	98–182	10/17/83	9/14/83	5/21/84	98–288			

Domestic Volunteer Service Amendments of 1986	H.R. 4116	99–588	99–332	6/17/86	7/14/86	10/27/86	99–551			
Older Americans Act Amendments of 1987	H.R. 1451	100–97	100–136	5/28/87	8/6/87	11/29/87	100–175			
Economic Opportunity Amendments of 1972	S. 3010 H.R. 12350	92–815	92–987	2/17/72	6/29/72	9/19/72	92–424	E&L	L&HR	Administration on Children and Families, U.S. Department of Health and Human Services
Community Services Act of 1974	H.R. 14449	93–1043	93–1291	5/29/74	12/13/74	1/4/75	93–644			
Head Start Act of 1981	H.R. 3982	97–158	—	6/26/81	7/13/81	8/13/81	97–35			
Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987	S. 1417	—	100–113	8/4/87	7/21/87	10/29/87	100–146	E&L, E&C	L&HR	Administration on Developmental Disabilities, U.S. Department of Health and Human Services
Older Americans Act Amendments of 1987	S. 887 H.R. 1451	100–97	100–136 100–140	5/28/87	8/6/87	11/29/87	100–175	E&L	L&HR, IA	Administration on Aging, U.S. Department of Health and Human Services
Temporary Child Care for Handicapped Children and Crisis Nurseries Act Amendments of 1988	H.R. 4676	—	—	7/26/88	8/9/88	8/19/88	100–40			Administration on Children and Families, U.S. Department of Health and Human Services
Abandoned Infants Assistance Act of 1988	S. 945	—	—	9/13/88	8/5/87	10/18/88	100–505	E&L, E&C	L&HR	Administration on Children and Families, U.S. Department of Health and Human Services

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No. House	Report No. Senate	Date of Passage House	Date of Passage Senate	Public Law Date Signed	Public Law No.	Committee House	Committee Senate	Federal Administering Agency
Children with Disabilities Temporary Care Reauthorization Act of 1989	S. 1455 H.R. 2087	101–113	—	7/11/89	9/20/89	10/25/89	101–126	E&L	L&HR	Administration on Children and Families, U.S. Department of Health and Human Services
Domestic Volunteer Services Act Amendments of 1989	S. 1426 H.R. 131	101–116	101–122	7/11/89	9/15/89	12/7/89	101–204	E&L	L&HR	ACTION
Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1990	S. 2753 H.R. 5679	—	101–376	10/10/89	8/2/89	10/31/89	101–496	E&C	L&HR	Administration on Developmental Disabilities, U.S. Department of Health and Human Services
Abandoned Infants Assistance Act Amendments of 1991	S. 1532	—	102–161	11/19/91	10/29/91	12/12/91	102–236		L&HR	
TRANSPORTATION										
To provide long–term financing for expanded urban mass transportation programs	S. 3154 H.R. 18185	91–1264	91–633	9/29/69	2/3/69	10/15/69	91–453	PWT	CST	Urban Mass Transportation Administration, U.S. Department of Transportation
Federal Aid Highways Act of 1973	S. 502	93–118	93–61	4/19/73	3/15/73	8/13/73	93–87			

National Mass Transportation Assistance Act of 1974	S. 386 H.R. 6452	—	93–361	10/3/73	9/10/73	11/26/73	93–503			
Surface Transportation Assistance Act of 1978	H.R. 11733	95–1485	—	9/28/78	10/3/78	11/6/78	95–599			
Air Carrier Access Act of 1986	S. 2703	—	99–400	9/18/86	8/15/86	10/2/86	99–435			
Surface Transportation and Uniform Relocation Assistance Act of 1987	H.R. 2	100–27	—	1/21/87	2/4/87	4/2/87	100–17			
Intermodal Surface Transportation Efficiency Act of 1991	H.R. 2950	102–171	—	10/23/91	10/31/91	12/18/91	102–240			

VOCATIONAL REHABILITATION

Vocational Rehabilitation Act Amendments of 1966	H.R. 8310	89–432	89–806	7/29/66	10/1/66	11/8/66	89–333	E&L	L&HR	Rehabilitation Services Administration, U.S. Department of Education
Vocational Rehabilitation Amendments of 1967	H.R. 12257	90–563	90–565	8/21/67	9/20/67	10/3/67	90–99			
Vocational Rehabilitation Amendments of 1968	S. 3213 H.R. 16189	90–1346	90–1309	5/16/68	6/24/68	7/7/67	90–391			
To extend for one year the authorization for various programs under the Vocational Rehabilitation Act	H.R. 19401	91–1660	91–1433	12/7/70	12/1/70	1/31/71	91–610			

APPENDIX A: LEGISLATIVE HISTORY OF KEY STATUTES RELATING TO PERSONS WITH DISABILITIES—continued

Category/Law	Bill No.	Report No. House	Report No. Senate	Date of Passage House	Date of Passage Senate	Public Law Date Signed	Public Law No.	Committee House	Committee Senate	Federal Administering Agency
Rehabilitation Amendments of 1973	H.R. 8070	93–244	93–318	6/5/73	7/18/73	9/26/73	93–112			
Rehabilitation Act Amendments of 1974	S. 4194 H.R. 17503	—	93–1927	11/26/74	11/26/74	12/7/74	93–516			
Rehabilitation Amendments of 1976	H.R. 11045	94–721	—	12/15/75	12/19/75	3/15/76	94–230			
Rehabilitation, Comprehensive Services, and DD Amendments	H.R. 12467	95–1149	—	5/16/78	9/21/78	11/6/78	95–602			
Rehabilitation Amendments of 1984	S. 1340	98–298	98–168	9/12/83	7/26/83	2/22/84	98–221			
Rehabilitation Act Amendments of 1986	H.R. 4021	99–571	99–388	5/7/86	9/8/86	10/21/86	99–506			
Technology Related Assistance for Individuals with Disabilities Act of 1988	S. 2561 H.R. 4904	100–819	100–438	8/8/88	8/2/88	8/19/88	100–407	E&L	L&HR	Office of Special Education and Rehabilitative Services, U.S. Department of Education
Rehabilitation Act Amendments of 1991	H.R. 2127	102–3169	102–6259	5/20/91	5/21/91	6/6/91	102–52			

BUDGET LAWS

Omnibus Budget Reconciliation Act of 1981	H.R. 3982	97–158	97–139	6/25/81	7/13/81	8/13/81	97–35
Omnibus Budget Reconciliation Act of 1982	H.R. 6955	97–750	97–759	8/18/82	8/18/82	9/8/82	97–253
Deficit Reduction Act of 1984	H.R. 4170	98–432	98–312	4/11/84	5/17/84	7/18/84	98–369
Consolidated Omnibus Budget Reconciliation Act of 1985	H.R. 3128	99–241	99–146	10/31/85	11/14/85	4/7/86	99–272
Omnibus Budget Reconciliation Act of 1986	H.R. 5300	99–727	99–348	9/24/86	9/25/86	10/21/86	99–509
Omnibus Budget Reconciliation Act of 1987	H.R 3545	100–391	—	2/2/87	2/22/87	12/22/87	100–203

COMMITTEE ABBREVIATIONS

House

Agr	Agriculture
BFUA	Banking, Finance and Urban Affairs
Bud	Budget
E&C	Energy and Commerce
E&L	Education and Labor
GO	Government Operations
HA	House Administration
Jud	Judiciary
PWT	Public Works and Transportation
VA	Veteran's Affairs
W&M	Ways and Means

Senate

Agr	Agriculture
ANF	Agriculture, Nutrition and Forestry
BHUA	Banking, Housing, and Urban Affairs
Bud	Budget
CST	Commerce, Science, and Transportation
Fin	Finance
IA	Select Committee on Indian Affairs
L&HR	Labor and Human Resources

APPENDIX B
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